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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the territory of the former Yugoslavia

Periodic report submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 42 of Commission resolution 1995/89

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Introduction

1. The Special Rapporteur conducted a mission to Croatia and Bosnia and Herzegovina from 22 May to 3 June 1995, in accordance with the mandate given to him by the Commission on Human Rights. The mission coincided with a moment of great crisis in these territories. It took place shortly after the Croatian offensive in Western Slavonia and the following dramatic events unfolded while the mission was still under way:

The massacre of 71 civilians in Tuzla;

Increased shelling of Sarajevo leading to substantial civilian death and injury;

The taking of United Nations personnel as hostages;

The escalation of serious human rights violations in the Banja Luka region.

2. Because of various obstacles, the mission of the Special Rapporteur only covered Western Slavonia in Croatia, and central and south Bosnia and Herzegovina. The detailed programme of the mission is reproduced in the annex to the present report. This report presents the findings of the Special Rapporteur on the areas visited as well as information on important human rights developments in areas he was unable to visit owing to the security situation or denial of access, such as Sarajevo, other United Nations designated "safe areas" and Banja Luka.

3. The Special Rapporteur would like to emphasize at the outset that further investigation is necessary before a clear picture of events in Western Slavonia can be obtained. In particular, it is indispensable that testimonies are collected from Serbian refugees who are at present in territory controlled by de facto Bosnian Serb 1/authorities in Bosnia and Herzegovina, in the Federal Republic of Yugoslavia or in the territory of the so-called Republic of Serb Krajina ("RSK"). Neither the Special Rapporteur nor his field staff have been given access to these territories despite numerous requests.

4. The authorities in Croatia and in Bosnia and Herzegovina offered their cooperation in the conduct of the mission. The Special Rapporteur would like to express his gratitude to representatives of the local population and non-governmental organizations for their willingness to share relevant information and opinions.

1/ Whenever the terms "Bosnian Serb forces" or "Bosnian Serb de facto authorities" are used in this report, reference is being made, unless otherwise indicated, only to Bosnian Serbs who are in the military or civilian service of the de facto administration which has its political headquarters at Pale. In particular, no reference is intended or to be implied to any Bosnian Serbs who are loyal to the Republic of Bosnia and Herzegovina.

5. The full cooperation provided to the Special Rapporteur in the implementation of his mandate by the United Nations Peace Forces (UNPF), and in particular the civilian component and the United Nations Civilian Police (Civpol) is welcomed and it is hoped that they will continue to play an active role in the field of human rights in the region.

I. CROATIA - Western Slavonia (Sector West)

A. Events occurring during the military operation

6. On 1 May 1995, the Republic of Croatia launched a major military operation in Western Slavonia, violating the cease-fire agreement of 29 March 1994. Western Slavonia (Sector West) had been defined as a United Nations Protected Area (UNPA), subject to United Nations protection and monitoring since 1992, pursuant to Security Council resolutions and United Nations-brokered cease-fire agreements, and constituted part of the so-called "Republic of Serb Krajina" ("RSK"). Croatian Army troops, supported by some 30 tanks, moved into the Sector on 1 May 1995 from three directions and pushed towards the border of Bosnia and Herzegovina to the south, taking most Serb-controlled territory within 36 hours and the entire Sector by 4 May 1995. United Nations forces in Sector West, comprised of battalions from four countries, took no action to deter the Croatian Army offensive. The Croatian Army blocked all access of international monitors throughout most of the area of the military operation for four days following its initiation, and in some areas for a full week.

1. Okucani area

7. The most intensive fighting in the Sector occurred in its southern half, mostly around the town of Okucani. As many as 10,000 people fled from this area into the Serb-held territory of Bosnia and Herzegovina on 1-2 May 1995, in a convoy which included many civilians along with a number of "RSK" soldiers and military vehicles. The road from Okucani to the crossing into this territory at the Sava River bridge sustained heavy shelling by Croatian forces during this period, and Croatian warplanes bombarded both sides of the river. To date it has not been possible to establish the exact number of civilians killed in the course of these events. According to Croatian government sources, some 20 "RSK" civilians were killed in the Sector during the entire operation; however, reports from refugees who succeeded in crossing the river indicate the number along the Okucani-Sava River road alone may have been considerably higher.

8. North of the Sava River bridge, United Nations troops withdrawing from their posts on 2 May 1995 reported seeing numerous bodies of civilians scattered along the road between the river and Novi Varos, south of Okucani, and as many as 30 dead civilians in vehicles clustered in a group at Novi Varos itself. Heavy automatic weapons fire was heard in the area at the time, and the dead appeared not to have been victims of artillery impacts. In a similar incident further north on the same road, two different sources recounted to the Special Rapporteur's field staff the alleged killing by Croatian machine-gun fire of as many as 10 intending refugees aboard a truck at Benkovac on the night of 1-2 May 1995.

9. Serbs who lived further from the road to the border had little chance to flee to the Serb-held territory of Bosnia and Herzegovina and thus faced the Croatian military as it swept into the Sector. According to reports received by the Special Rapporteur, including one from an eyewitness, Croatian Army troops entering the village of Paklenica from Novska on 1 May 1995 appear to have fired indiscriminately at civilians and homes, despite encountering no resistance, and may have killed as many as 10 civilians at that location. One source reported witnessing Croatian Army soldiers dumping the bodies of two women into a well. On 2 May 1995, United Nations personnel fleeing Okucani westwards, through Paklenica in the direction of Novska, reported seeing some 50 bodies along the road, including those of civilians. Near Paklenica, the Croatian Army also reportedly detained a group of 15 Serb civilians fleeing towards Okucani along a path in the woods. The men were separated from the women and children and beaten severely, and all the members of the group were forced to hand over their money and valuables.

10. It is alleged that 16 civilians were killed in the villages of Medari and Trnovo on 2 May 1995 by Croatian army soldiers and then buried in a mass grave near the cemetery. The case will require further investigation as there are indications that the victims were killed in an area where there was no specific military combat taking place.

11. Croatian Army soldiers entering the village of Gornja Sumetlica on 4 May reportedly opened fire on a group of some 15 civilians attempting to flee the area, killing two of them. The Special Rapporteur's field staff observed two fresh gravesites at the location during a visit on 11 May.

12. Between 2 and 4 May 1995, the Croatian military reportedly conducted an intensive clean-up operation in the areas around Okucani, west towards Novska and south towards the Sava River bridge. A chemical disinfectant machine was reported in the area, bodies were seen being loaded into trucks and, according to one reliable account, a convoy of refrigerator trucks was seen on 3 May 1995 heading west from Okucani along the main highway towards Zagreb. By the time international observers were permitted entry to the area after 4 May 1995, no signs of possible breaches of humanitarian law were visible.

2. Pakrac area

13. In Gavrinica, a suburb of Pakrac (the main town in the north of Serb-controlled area of Sector West), fighting was suspended on 3 May 1995 after a "demobilization" brokered in part by the local United Nations Argentine Battalion was tentatively accepted by both sides. The agreement would have allowed some 600 "RSK" fighters gathered in Gavrinica and their families to obtain safe passage to Bosnia, after gradually surrendering their weaponry (with the exception of side-arms) to the United Nations over the course of five days.

14. At 2 p.m. on 4 May 1995, one hour before discussions on the demobilization were to resume, the Croatian military commenced an intense artillery barrage of the area in Gavrinica in which the "RSK" soldiers were gathered. Purportedly the attack was launched in response to fire from "RSK" positions, although international observers at the scene deny such fire occurred. A number of civilians, including two girls, were reportedly killed

in the shelling assault, and others were wounded. The Croatian Army demanded and received unconditional surrender from the "RSK" fighters in Gavrinica at about 4 p.m. that afternoon.

3. General Remarks

15. On 4 May 1995, during remarks in the Parliament, the Croatian Minister of Defence stated that between 350 and 450 "RSK" soldiers had been killed and 1,200 wounded during the operation by Croatian forces, which themselves suffered 37 fatalities and some 150 wounded. No figure was given for the number of civilian dead. However, Croatian government figures released on 22 May 1995 set the number of Serb dead at 188, of which 20 and possibly a total of 54 were claimed to have been civilians. Burial sites were observed by the Special Rapporteur's field staff on 16 May 1995 at Vrbovljani and Okucani which bore the appearance of possible mass graves. The sites were later significantly altered, with individual mounds created and marked with crosses near the end of May. The Government of Croatia has stated that the 188 bodies, of which 127 have been identified, are now located in 13 cemeteries around the area. The Government, however, refuses to release data on the identities of most of the war dead.

16. At the same time, the Government claimed to have treated only 10 wounded individuals from "RSK" in Croatian hospitals. The United Nations has estimated that about 500 wounded persons from the "RSK" fled into the Serb-held territory of Bosnia and Herzegovina with the retreating Serbian population during the first two days of the military operation.

17. Over 100 houses were destroyed during the military offensive in Western Slavonia. According to a reliable report received by the Special Rapporteur, the new chief of police in Okucani acknowledged that some houses in Vrbovljani, Covac and Okucani were intentionally blown up after the initial fighting because "these villages were well-known for terrorist activities in the past". There were also numerous incidents of looting by the advancing Croatian forces and, to a lesser extent, by those of the retreating "RSK". The field staff of the Special Rapporteur viewed extensive damage in more than 50 dwellings throughout the sector.

4. "RSK" attacks on civilians in Croatia outside the area of the military operation

18. In response to Croatia's offensive in Western Slavonia, the "RSK" authorities ordered a series of artillery and rocket attacks on several Croatian cities, including Karlovac and Sisak, which were carried out on 2-3 May 1995. More than 10 Orkan rockets packed with cluster bombs were fired during the mid-day hours into the Croatian capital of Zagreb, killing 6 civilians and wounding more than 100 others. One rocket struck a children's hospital in the city centre.

B. Mass detention

19. Following their recovery of control over Western Slavonia, the Croatian authorities immediately detained virtually all males, particularly from the area around Pakrac (Gavrinica). A total of 1,494 men, including youths and

some elderly men, were taken into custody in three community centres in the towns of Bjelovar, Pozega and Varazdin.

20. In the temporary detention facilities, prisoners were interviewed in a process described by Croatian authorities as an attempt to identify possible "war criminals"; it was announced that all other detainees were to be released unconditionally under the terms of an "abolition" law exempting them from possible prosecution for activities on behalf of the "RSK". The centres were opened to international inspection and dozens of officials and press representatives were permitted inside to observe the detainees, who were gathered on blankets on gymnasium floors.

21. According to international observers, detainees appeared to have suffered no major mistreatment during this initial stage. However, the Special Rapporteur has received several credible reports of abuse of prisoners committed some days after the detention programme commenced. Several accounts were received of beatings occurring at the Varazdin facility, and the Government of Croatia has informed the Special Rapporteur that one policeman posted there has been released from employment and may be prosecuted. An elderly former detainee interviewed by the Special Rapporteur's field staff while receiving medical treatment for his injuries stated that rooms out of view of international monitors were used at Varazdin for the beating of prisoners.

22. Other former detainees reported being beaten and verbally abused, some after transfer from the community centre in Pozega to the Pozega prison, and others while in bus transit (which took place after midnight) from the Bjelovar prison to release in Pakrac. The latter incident allegedly concerned some 25 prisoners and occurred at the hands of a military policeman in a bus on the night of 16 May 1995.

23. Most of the 1,494 prisoners were released by the Government of Croatia within a few days, and some after about two weeks. However, none of these individuals received written notice of their protection from future prosecution under the "abolition" law. According to information received uptil the end of June, the authorities are continuing to hold for further investigation some 186 men in standard prison facilities in the cities of Zagreb, Osijek, Bjelovar and Pozega, as well as 19 alleged expatriate prisoners-of-war in a military stockade in Split, contrary to assurances given to the Special Rapporteur in early June that the vast majority of them would soon be released. The Government's initial failure to provide data to relatives and international agencies concerning the identities and locations of detained individuals caused intense feelings of insecurity and alarm among families remaining in the Pakrac area.

24. The Special Rapporteur has received reports of numerous rearrests in Gavrinica and its environs of people who had earlier been released from detention. These incidents of rearrest have also contributed to the insecurity felt by Serbs remaining in the Sector.

25. The right to fair trial of those currently in custody is reportedly not being fully secured as access to legal counsel appears to be inadequate and no

specific charges seem to have been brought against many of them. The field staff is examining this situation, and the Special Rapporteur will communicate his conclusions to the Government in due course.

26. On 9 June, the law on "abolition", guaranteeing freedom from prosecution for all "RSK" soldiers apart from those who have allegedly committed war crimes, was officially extended in scope to cover those persons arrested by the Croatian authorities during the course of the operation in Western Slavonia.

27. During a meeting on 2 June with representatives of the Government of Croatia, the Special Rapporteur requested that the International Committee of the Red Cross (ICRC) be given full access to all detained persons. Such access has now been granted.

C. Refugees

28. During the first two days of the military operation, as many as 10,000 people fled from the Serb-held area of Western Slavonia, mostly from the Okucani area, across the Sava River bridge into northern Bosnia and Herzegovina. The "RSK" authorities had previously held regular evacuation drills, and there are reports that some of the refugees may have been forced into leaving against their will. Subsequently, in negotiations with UNPF and the Croatian authorities, the leaders of the "RSK" insisted that the persons left behind, estimated at 3-4,000, be given the opportunity to leave Western Slavonia and join the other refugees in the Serb-held territory of Bosnia and Herzegovina. The United Nations acceded to this demand and initiated the programme known as "Operation Safe Passage", within the context of the Four Point Cessation of Hostilities Agreement.

29. Serbs still living in the Sector were advised of their right to remain, and the public assurances of the Government of Croatia that their rights, including the right to citizenship of the Republic of Croatia, would be fully respected. Nevertheless, during the month of May hundreds of Serbs from Sector West applied for inclusion in Operation Safe Passage, and by early June more than 2,000 had left for Serb-held territory in Bosnia and Herzegovina. According to recent information, no more than 1000 remain in the Sector. Numerous observers have voiced concerns that the operation was conducted in an unduly hasty manner and persons were not adequately informed of their rights. However, continuing demand for inclusion in the exit convoys as late as mid-June suggests that most Serbs in Western Slavonia were intent upon leaving under any circumstances. Intending refugees interviewed by the Special Rapporteur's field staff indicated that the main reasons for their wish to depart were the desire to join relatives who had already fled, and doubts about future prospects in Croatia, especially the security situation and the likelihood of finding work.

30. In meetings held with the Special Rapporteur in early June, the Government of Croatia stated that refugees who fled Western Slavonia, either in the initial exodus in early May or in Operation Safe Passage, would be permitted to return. However, such permission was to be extended only to persons who had resided in the area prior to 1991, and who are judged not to

be "war criminals". At the time of preparation of this report, some 100 refugees in northern Bosnia and in Serbia (Federal Republic of Yugoslavia) had indicated to UNHCR their wish to effect such return.

D. Situation in Sector East

31. In late May, an influx of thousands of Western Slavonian refugees began moving into the Serb-controlled area in Croatia known as Sector East, having travelled from the Banja Luka region of Bosnia through the Federal Republic of Yugoslavia (Serbia and Montenegro). Nearly 100 Croats from at least one town in Sector East, Bapska, reportedly left their homes of their own volition, for self-protection, and sought refuge in Serbia. The situation in Sector East remained highly volatile in mid-June, although most of the approximately 4,000 refugees appear to have been provided with temporary accommodation. Tension in the Sector has been aggravated by widespread incidents of lawlessness, including numerous grenade attacks on homes belonging to non-Serbs. There have also been numerous hijackings of vehicles belonging to international organizations in the Sector. It appears that the de facto authorities are unable or unwilling to control these incidents, and freedom of movement for all in the Sector is accordingly severely restricted.

E. Human rights situation in Western Slavonia following the re-establishment of Croatian administration

32. Extensive reports received by the Special Rapporteur and his field staff, as well as by other international observers, reveal that intimidation and abuse of Serbs living in Western Slavonia were widespread in the days following Croatia's resumption of control over the area. Many human rights violations were attributed to soldiers of the Croatian Army, who remained present throughout the Sector for at least 10 days following the end of the military operation.

33. In the village of Bukovcani, an elderly woman whose farm was occupied by Croatian soldiers was regularly threatened, and on one occasion had a knife held to her throat while the soldiers demanded information about hidden weapons. She later decided to abandon her home and join Operation Safe Passage into Bosnia. In Brusnik, Croatian police officers reportedly hung bells around the necks of local Serb residents and forced them to bleat and to eat salt; the local police chief removed the unit responsible from the area upon hearing of the incident. Numerous incidents of harassment were reported to have occurred at night, as in one case in which drunken soldiers entered a home in Seovica, threatened and insulted the occupants and demanded liquor.

34. In the village of Skenderovci, the Special Rapporteur's field staff investigated a report of the murder of an elderly Serb couple some time between 10 and 15 May 1995. Inspection of the couple's farm revealed two locations teeming with worms where an eyewitness had observed the Croatian police collecting the bodies the day before. Field officers then went to the local cemetery and found two fresh grave sites marked by a cross which had been taken from a nearby plot. The available evidence indicates that the Croatian authorities failed to undertake a proper investigation of the circumstances of these killings.

35. It was reported to the Special Rapporteur that six bodies had been dumped in a shed at the municipal cemetery in Okucani. On 16 May 1995 field officers viewed the bodies of three elderly persons lying on the floor of the shed and reported the incident to UN authorities who in turn contacted the Croatian authorities. No information has been received by the Special Rapporteur as to whether an investigation has been conducted into the circumstances of these deaths.

36. On 16 May 1995, international workers present in the village of Bijela Stijena observed the bodies of nine elderly persons in one house. Croatian Army troops ordered the workers to leave the area on the grounds that it was "unsafe" and when they returned several hours later, the bodies had been removed. The soldiers offered no explanation for the incident.

37. On 6 May 1995, elderly nuns in the St. Ana Monastery (Serb Orthodox Church) in the Croatian-held part of Sector West were attacked by four persons who beat one nun, smashed doors and windows and stole the nuns' money. Two alleged perpetrators, both Croatian soldiers, were later arrested and imprisoned at Bjelovar.

38. Numerous credible reports have been received of the theft of property from dwellings which had been abandoned during the course of the military action. In one typical incident, a woman reported being threatened with a gun by a man in civilian clothes when she tried to prevent him from stealing her brother's corn supply in the village of Ladevac at the end of May. Testimonies were also received of people being forced to sell their personal possessions at unreasonably low prices.

39. The Croatian authorities have been unable to inform the Special Rapporteur of individuals who have been arrested or prosecuted for criminal offences committed in Western Slavonia (except in the case of the St. Ana nuns) since the conclusion of the military operation at the beginning of May.

40. Testimonies from Serbs remaining in the Sector indicate that the Croatian police, who assumed responsibility for security following the departure of the army, generally have comported themselves professionally. However, the presence of dozens of Croatians in civilian clothes carrying side arms in full view without interference by the police, considerably added to local tension in the days following the offensive.

F. Confidence-building measures

41. In its public statements the Government has consistently emphasized its commitment to the right of the Serb population in Western Slavonia to obtain Croatian citizenship, as provided by Croatian law. As of mid-May, 1,070 Serbs formerly living in the "RSK" had formally applied for Croatian citizenship, with 675 receiving citizenship status and the rest still awaiting decisions.

42. By June, however, it had become apparent that considerable difficulties still face former "RSK" residents who wish to enjoy civic and social rights in Croatia. Because Croatia refuses to recognize official acts undertaken by the self-proclaimed "RSK", a full range of vital documents - including birth, marriage and death certificates - are considered by local authorities to be

without legal effect. Thus, reports have been received of elderly women being denied pension benefits accruing through their deceased husbands, since there is no "legal" evidence of their husbands' death. Birth certificates issued to children born in Western Slavonia by "RSK" authorities have been declared invalid by local Croatian officials. Similarly, in one case witnessed by the Special Rapporteur's field staff, a woman was denied permission to visit her husband in the prison at Bjelovar, since their marriage certificate issued by the "RSK" was deemed to be legally worthless.

43. Following the offensive, the Government of Croatia acted quickly to reinstall its civic authority throughout the territory formerly held by the "RSK". Ministers were appointed by the central Government to oversee day-to-day administration, and the Croatian police were assigned the task of ensuring security. Among the first steps undertaken by the authorities to assist the local population was the distribution of small sums of cash for the purchase of food and other necessities, and the establishment of free local bus transportation.

44. During his mission the Special Rapporteur met with representatives of the local Serbian population, headed by Mr. Veljko Djakula, to review progress made in confidence restoration. While presenting the Special Rapporteur with various facts indicating violations of the human rights of the Serbian population, they expressed their willingness to cooperate with the Croatian authorities in order to establish structures of civil society in the region. The Special Rapporteur discussed that problem during his subsequent meeting with Minister Ivan Majdak, the Croatian government representative in Western Slavonia. According to Mr. Majdak, the authorities are determined to integrate the local Serbian population into the local administration.

45. It appears, however, that the Government has acted relatively slowly in expanding its civic initiatives to include meaningful participation by members of the local Serb population. Only in early June were committees tentatively established in each of the territory's four municipalities to allow local residents to contribute to planning for the area's future. These committees, which are limited to an advisory role, are each composed of five representatives - three Croats and two Serbs. As of the end of June the committees had not yet commenced functioning.

46. Regarding the police force, the Government has stated that 50 Croatian police officers of Serb nationality have been included among those newly assigned to the former "RSK" region of Western Slavonia.

47. The elementary school of Pakrac (the only school functioning in the area as of mid-June), has branches in Gavrinica and Seovica where only Serb children attend. Classes in these branch schools have reportedly been conducted using exclusively the Latin script - an abrupt change for students who were accustomed to the Cyrillic script under the system maintained by the "RSK". The name of the school has been changed as previously it bore the name of an anti-fascist hero from the Second World War and the first lesson given to the children involved singing the Croatian anthem. Under Croatian law, nationality groups which comprise at least 8 per cent of the population, of which Serbs are one, are entitled to schooling in their own language. However, this provision has not yet been adequately implemented throughout

most of Croatia, and there is no indication that it will be implemented in Western Slavonia in the near future.

48. Most persons who worked as teachers while the "RSK" controlled the area have fled into the Serb-held territory of Bosnia and Herzegovina. Out of 10 teachers who remained at the end of June, only 4 (teachers of the natural sciences), had been asked to continue in their posts. This happened despite assurances given to the Special Rapporteur by the Croatian authorities that all remaining teachers could resume their posts in the schools. Other teachers now working at the Pakrac school in the formerly Serb-held area come from the Croatian part of the town.

49. An important test of the long-term security prospects in the Sector will come in the next two months, when the Croatian authorities expect to oversee the return to their dwellings of as many as 14,000 Croats displaced from the area by fighting in 1991. The Government has given no indication whether it intends to implement simultaneously the return to Croatian-held areas of Serbs similarly displaced four years ago.

50. It should be noted that a significant contribution to the restoration of confidence in Western Slavonia has been made by a coalition of 11 Croatian NGOs, under the name of the Coordination of Organizations for Human Rights. This group has opened an office in Gavrinica in which complaints on human rights matters are received and free legal advice offered.

G. Conclusions

51. The Croatian authorities are responsible for violations of human rights and humanitarian law during and after the military operation in Western Slavonia. Many of those violations were of a serious character; however, they did not appear to occur on a massive scale. The precise extent of those violations requires further investigation. The Croatian Government's denial to international observers of access to affected areas during the first week of the offensive created serious obstacles to verifying pertinent facts. In addition the Bosnian Serb de facto authorities obstructed the collection of information from Serbian refugees fleeing Western Slavonia, by refusing access to the field staff of the Special Rapporteur.

52. The "RSK" authorities are responsible for shelling a number of civilian areas which constitutes a serious violation of humanitarian law.

53. There are serious doubts concerning the credibility of data provided by the Croatian authorities in relation to the number of persons killed during the offensive, particularly among the civilian population. It appears that major differences also exist in the interpretation of the term "civilian population". Nevertheless, credible data given by various international sources indicate that the number of civilian dead exceeds Government figures.

54. It appears that the majority of detainees have been treated correctly. However, there have reportedly been a number of cases of physical and verbal abuse and other forms of degrading treatment. The legal situation of released prisoners has not been made clear and constitutes one of the elements influencing their decision to leave Western Slavonia.

55. The vast majority of the Serbian population has either already left or is determined to leave Western Slavonia. It seems that the main reason for this exodus is fear of possible repercussions. Both the Croatian authorities and international organizations have failed to do their utmost to prevent this exodus. Contradictory statements given by representatives of the Croatian authorities during the first few days following the offensive, and the later establishment of certain criteria for return, did not help to foster confidence in the intentions of the authorities.

56. The authorities have undertaken certain steps to restore confidence and to facilitate coexistence among the population. However, measures taken so far do not appear adequately to meet existing needs in this respect.

57. An important role in confidence-building has been played by the Coordination of Organizations for Human Rights, composed of NGOs from all over Croatia.

H. Recommendations

58. All doubts concerning events which happened in Western Slavonia during the military operation should be clarified and public opinion informed accordingly.

59. The Croatian authorities should identify all those killed and provide information to the families about the causes of death and the place of burial. Whenever necessary, exhumation should be carried out under the supervision of international experts. The Croatian authorities should also pursue criminal proceedings against persons suspected of having committed war crimes.

60. The legal status of those remaining in detention should be clarified immediately and their right to defence properly secured.

61. The Croatian authorities should accelerate the process of integrating representatives of the Serbian population into local administrative structures.

62. The school system in Western Slavonia should take into account the cultural identity of the Serbian population.

63. International and local organizations should continue to monitor the human rights situation in the region.

64. The process of the return of the displaced should be organized in a manner guaranteeing the respect of the human rights of all the population, including the right to property, and should also include the Serbian population which left the territory controlled by the Croats prior to May 1995.

II. BOSNIA AND HERZEGOVINA

A. Sarajevo

65. The Special Rapporteur was unable to visit Sarajevo during his recent mission owing to the deteriorating security situation. However, given the dramatic events which have unfolded in that area, it is imperative that attention is drawn to the human rights situation there. The information contained in the present report is submitted on the basis of information gathered by the field staff of the Special Rapporteur and that derived from other sources.

1. Targeting of the civilian population

66. In late February and early March 1995 there were reported incidents of shooting at trams on several occasions, which led to the curtailment of the service. There was some sniping activity by Bosnian Serb forces against civilians reported in March. On 23 March 1995, two young girls were killed in Grbavica by a sniper shooting from government positions. The army headquarters of the Government of Bosnia and Herzegovina expressed its regret at this incident and stated that the individual soldier concerned had been detained.

67. In late April the level of firing incidents increased and civilians were reported to have been killed or injured on an almost daily basis by shelling or sniping. On 25 April 1995, one civilian was killed and five others reported injured when small arms fire was opened against two buses in Sedrenik, a suburb of Sarajevo under the control of the Government of Bosnia and Herzegovina.

68. At the beginning of May, with the end of the Cessation of Hostilities Agreement, the situation rapidly deteriorated. The first major assault took place on 7 May 1995 when the Bosnian Serb forces shelled the Sarajevo suburb of Butmir, killing 9 people and wounding 50 others, with virtually all the victims being civilians. On 16 May 1995, some of the heaviest fighting in more than a year was reported resulting in 3 dead and 26 wounded. Civilian lives were heedlessly endangered as mortar shells were fired by the Bosnian Serb forces into densely populated areas. Military activity, including the firing of mortars, took place from government positions in the city.

69. Following the NATO airstrike on 25 May 1995, Serb retaliation included the shelling of Sarajevo, as well as other United Nations designated "safe areas", namely Tuzla, Gorazde, Srebrenica and Bihac. Heavy weapons were used from Ilidza to target civilian objectives in Hrasnica, resulting in two deaths and several casualties. One local source reported that a total of 41 civilians had been killed and 182 wounded in Sarajevo during the month of May 1995.

70. In an incident on 18 June 1995, 7 people were killed and 12 injured when a shell fired by the Bosnian Serb forces landed in the western suburb of Dobrinja. These civilians were killed in a queue at a water supply point, having been compelled to leave their homes by the cutting of the water supply

by the Bosnian Serb forces. It has been reported that between 18 and 23 June 1995, 22 civilians have been killed and many more injured by shelling. On 28 June 1995, the Bosnian Serb forces launched rocket attacks on the television centre, which resulted in the death of five people and the wounding of dozens of others. Both local people and foreign journalists were hurt in this attack. During the weekend of 1 - 2 July 1995, there was further indiscriminate shelling of Sarajevo by Bosnian Serb forces as a result of which 13 civilian deaths were reported. Targeting of civilian areas resulting in death and injury of the civilian population continues at the time of writing this report, with the renewal of heavy fighting in the region.

2. Harassment and attacks on United Nations personnel

71. There has been an ongoing pattern of humiliation of and attacks on United Nations personnel since the beginning of the year. United Nations peacekeepers have clearly been targeted on numerous occasions, sometimes resulting in death. On 14 and 15 April 1995, two French soldiers were killed and it was not possible to establish which party was responsible for these attacks. On 11 May 1995, another incident was reported in which a French soldier was critically injured by a sniper shot. In an incident on 16 May 1995, the Hidrogradnja building, which houses a local company and United Nations civilian personnel, was hit by three mortar shells but no one was injured. It was assessed that the fire emanated from Bosnian Serb Army positions.

72. Following the NATO airstrikes in May the situation on the ground rapidly worsened. In two incidents on Vrbanje bridge in Sarajevo on 26 and 27 May 1995 involving an exchange of fire between UNPROFOR and the Bosnian Serb forces, three United Nations peacekeepers and five soldiers of the Bosnian Serb forces were killed. In violation of international humanitarian law, Bosnian Serb Army solders fired phosphorus shells at UNPROFOR troops, forcing them to don masks, in an incident on Vrbanje bridge on 7 June 1995. One United Nations peacekeeper suffered injuries from this chemical attack. On 4 July 1995 the headquarters of the United Nations commander in Sarajevo was targetted by Bosnian Serb forces and 5 people suffered injuries as a result.

73. The detention of United Nations personnel and representatives of other international organizations has posed a serious problem since the beginning of the year and has been practised by both sides, although to a much greater extent by the Bosnian Serb forces. International agencies particularly report harassment of local staff working for them.

74. The taking of United Nations personnel as hostages by the Bosnian Serb forces following the NATO airstrikes in May presented the international community with a major crisis. The hostages were captured in stages in the days following the airstrikes of 25 and 26 May 1995, and the number of captives mounted to a final figure of 370. Television footage showed some of these hostages chained to military installations and used as human shields to deter further NATO airstrikes against Bosnian Serb Army targets. The hostage crisis continued for a period of three weeks until the final hostages were released by 18 June 1995.

75. In addition, since the beginning of the year, the Bosnian Serb forces have detained the following persons for periods of up to three months: a Jordanian journalist; a Bosnian journalist seized from an UNPROFOR personnel carrier; a local UNPROFOR interpreter; five employees of the non-governmental organization, Pharmaciens sans frontieres; a German non-governmental organization official; and two Swiss individuals.

76. The government has also been responsible for the detention and intimidation of international staff. At the beginning of February 1995, two individuals, including a UNHCR local employee, were seized from a United Nations vehicle and detained until 20 March 1995. On 28 April, UNPROFOR announced that four local employees had been taken into custody by the military authorities and accused of espionage. Cooperation required of the Government of Bosnia and Herzegovina under the Status of Force Agreement of 1992 has not been forthcoming, and in particular access to the detainees has been denied despite an appeal from the Special Representative of the Secretary-General. On 22 May 1995, three local UNPROFOR staff were detained by government authorities when they failed to show work permits. All three were eventually released.

77. Continuous restrictions on freedom of movement have hampered both the peacekeeping and humanitarian aspects of United Nations activities. UNPROFOR vehicles have been subject to harassment at Bosnian Serb forces checkpoints and numerous hijackings of United Nations vehicles have occurred.

3. Humanitarian situation

78. The humanitarian situation in Sarajevo has reached a desperate stage owing to the virtual blockade of the delivery of humanitarian aid at the present time by the Bosnian Serb forces. The situation since the beginning of the year has been grave and the suspension of both ICRC and UNHCR humanitarian aid flights has been a key factor in the deterioration of the food supply situation in the past few months. ICRC flights have been suspended since 11 March 1995 when a readily identifiable ICRC aircraft was hit while landing at Sarajevo airport - the first time this has occurred since the start of the conflict. On 8 April 1995, the UNHCR humanitarian airlift was suspended after a cargo plane was hit by small arms fire and the Bosnian Serb de facto authorities subsequently declined to give safety guarantees. At the time of writing this report the airlift remains suspended for what has become the longest such period in its history.

79. Without humanitarian airlifts, overland transport through Serb-held territory in Bosnia and Herzegovina has been the only means of bringing food into Sarajevo. This has posed great difficulties as the consent of the Bosnian Serb de facto authorities is required and restrictions are frequently imposed on freedom of movement. In early May 1995, UNHCR reported that the quantity of food reaching Sarajevo was well below that required to meet the minimum needs of the population. By June 1995, the food shortage in Sarajevo had reached very acute levels. Individual household reserves are running out and it is estimated that a large proportion of the population are wholly dependent on humanitarian aid. On 8 June 1995, UNHCR took its last food stocks from Sarajevo airport to the city and it was predicted that the main

bakery supplying the city with bread would run out of flour shortly. It was estimated that the normal biweekly distribution of aid would only meet 15 per cent of requirements.

80. Even in early May, before the full escalation of the conflict, the utility situation was reported to have been worsening as there was no gas at all in the city. After the NATO airstrikes on 25 and 26 May 1995, the Bosnian Serb de facto authorities placed additional pressure on the utilities by cutting the electricity and water supplies. This poses a very serious problem as 80 per cent of the water supply is controlled by the Bosnian Serb de facto authorities. The small amount of electricity available is only sufficient for emergency services such as government operations and hospitals. As a retaliatory measure the government cut the electricity supply to Serb-held areas in the vicinity of Sarajevo, such as Ilidza, Hadzici and Rajlovac. Eyewitnesses give disturbing accounts of civilians in Sarajevo being confined for hours in shelters, passing their nights in pitch darkness and spending their days searching for water.

B. Human rights violations against civilians in other United Nations designated "safe areas"

81. The continued targeting of civilian areas and the interference with humanitarian aid reveals a rampant disregard for the security and dignity of the civilian population in the United Nations designated "safe areas". The Special Rapporteur was unable to visit these areas on his recent mission and the information provided below is derived from the reports of his field staff and other sources.

82. In retaliation for the NATO airstrikes, the "safe areas" were shelled on 25 May 1995 by the Bosnian Serb forces. The shelling of Tuzla on that day will be remembered as one of the worst atrocities of the three-year war. The attack took place on a late spring day in a cafe area frequented by the youth of the town, and resulted in the death of 71 persons and the wounding of 151 others, 33 critically. The casualties were the result of the firing of a single mortar round. The victims came from all ethnic groups and were mostly between the ages of 18 and 25, with the youngest being just two-and-a-half-years old. The barbarity of this attack was highlighted by the youth and vulnerability of these particular victims. Eyewitness reports gave harrowing accounts of limbs and other parts of bodies being found strewn across the area.

83. On the same day other United Nations designated "safe areas" were also shelled. In Gorazde the toll included the death of five persons and the wounding of five others. In Srebrenica, two children were reported killed and five people injured, and Bihac was also attacked. Zepa was the only United Nations designated "safe area" to escape shelling on that day. Sarajevo was also shelled as has been referred to above. The humanitarian situation in the enclaves is grave at the time of writing this report, owing to the severe difficulties faced by food convoys in obtaining clearance from Bosnian Serb de facto authorities.

84. Prior to this drastic turn of events, the targeting of civilian areas in United Nations designated "safe areas" had been a problem since the beginning of the year. On one occasion in April, 10 shells were reported to have landed in Tuzla city. One landed on the premises of a school when it was in session, but did not explode. In early May 1995, Tuzla city was reported to have received 13 shells, which resulted in the injury of 18 persons. On 25 March 1995, the Bosnian Serb Army fired from within the Gorazde 20-kilometre exclusion zone into the Gorazde "safe area", which resulted in civilian casualties.

85. In Bihac there has been almost continuous fighting since the beginning of the year, resulting in civilian casualties. The humanitarian situation in the Bihac enclave has been a repeated source of concern throughout most of this year. In April and May, UNHCR expressed its concern about the critical food situation, saying that more than 90 per cent of the population was facing extreme food shortages. Reports were received of people skipping one or two meals a day and selling personal belongings in order to pay exorbitant prices for food on the black market. The difficulty of gaining access for convoys was stressed. At the time of writing this report, the humanitarian situation is extremely critical and reports have been received of the death of a young child and an elderly man from starvation.

86. In mid-June reports were received of shelling by the Bosnian Government forces of Doboj as a consequence of which a hospital was hit a few times and some casualties resulted.

87. At the time of writing this report, concerns are being expressed at the threat to civilian lives due to serious fighting in Bihac, Gorazde and Srebrenica, as well as in other areas such as the Brcko corridor.

C. Banja Luka

88. In his report of 21 April 1995 (E/CN.4/1996/3), the Special Rapporteur drew attention to the heightening persecution of non-Serbs in the Banja Luka region. Following the Croatian offensive in Western Slavonia, there have been further reports of human rights abuses being perpetrated against the non-Serbian population, particularly Croats, in that area. This increase in tension is due in part to the influx of some 10,000 refugees to north-western Bosnia from Western Slavonia.

89. At the outset of his recent mission, the Special Rapporteur made a specific request to the de facto Bosnian Serb authorities for permission to visit territories under their control in north-western Bosnia in order to investigate these allegations, and also to gather information from refugees concerning alleged human rights abuses against the Serb population in Western Slavonia. As no permission was received in answer to his request, the Special Rapporteur was unable to make a first-hand assessment of the situation. However, in the course of his mission, the Special Rapporteur had a meeting with representatives of Bishop Komarica, who was undertaking a dramatic protest in the form of a hunger strike at that time. The Special Rapporteur also had a telephone conversation with Bishop Komarica himself.

Whilst still on mission, the Special Rapporteur issued a statement on 2 June 1995, expressing his concern for the fate of the non-Serbian population in Banja Luka.

90. The most noticeable pattern to emerge from recent events is the proliferation of attacks on Catholic clergy and buildings. The Special Rapporteur has received numerous reports of explosions in Catholic churches and buildings leading to fires and material damage in many locations in the region, including Vujnovici, Trn, Sargovaci, Majdan and Motike. Explosive material has been thrown into the Bishop's residence in Banja Luka on various occasions in May and June and reports on attacks on individual homes of priests have also been received. The most serious incident of this kind took place on 12 May 1995 and resulted in the death of two people. On that occasion, a Catholic church and rectory in Presnace were set alight following an explosion, and the charred bodies of a priest and a nun were recovered from the remains.

91. In another incident, it was reported that on 7 May 1995, paramilitary forces entered a monastery in Petricevac, rounded up all the friars and nuns, and dynamited the building. During the incident, the oldest priest died, reportedly from a heart attack. The remaining clergy were then expelled and found refuge with the Bishop of Banja Luka. In a case on 17 May 1995, it was reported that armed men in civilian dress beat and ill-treated a Catholic priest and two nuns in their house in the village of Trn. The buildings and staff of the non-governmental Catholic organization, Caritas, have been targeted.

92. A case of forcible expulsion took place on 4 May 1995 when two groups of Catholic nuns were taken by soldiers from convents at Bosanski Aleksandorovac and Nova Topola. They were taken to a bridge at Bosanska Gradiska which links Bosnia and Herzegovina and Croatia and made to cross. The nuns were not physically ill-treated during the expulsion but had to pass over the bridge which is laden with mines.

93. There are similar reports of attacks and harassment of the Catholic laity and the Croat community at large. A particularly brutal murder was reported to have been perpetrated on 14 May 1995 in which an elderly Bosnian Croat couple were killed in their home in Motike. The husband was reported to have been decapitated.

94. A major incident of expulsion was reported on 27 May 1995 when a group of armed military uniformed men entered the village of Sargovac, forced some 50 Croats from their homes and took them on a bus in the direction of Laktasi-Bosanska Gradiska. They were not allowed to take anything with them and had to surrender the keys of their houses and identity papers. Some of the elderly people who refused to leave were beaten and forced onto the bus, and other Croats in Sargovac and its environs were threatened that they too would be expelled in the near future. Refugees from Western Slavonia were reported to have moved into the empty houses. The group of 50 Croats was finally located in hotels only to be expelled once again as the local authorities which were housing them no longer wished to be involved in the matter.

95. In his report of 21 April 1995, the Special Rapporteur referred to the arrest of virtually the entire local leadership of the Muslim humanitarian organization, Merhamet, on 28 February 1995. A number of those arrested have been held in military prison since then and recent reports have confirmed that nine of those arrested have been officially charged with espionage.

96. The Special Rapporteur notes that these incidents have been accompanied by developments at the official level concerning the movement of people from their homes. A census was carried out in May which required home-owners to give details of property ownership and asked whether they would be willing to exchange their houses. It is reported that some of those completing this census form have been forced out of their homes. Furthermore, a property exchange law was passed on 17 May 1995 allowing "Republika Srpska" citizens of Croat or Muslim origin to exchange property with Serbs from Croatia and non-Serb-controlled regions of Bosnia and Herzegovina.

D. Central Bosnia and the Mostar area

97. The Special Rapporteur's mission to this region followed a mission to the same area a year earlier, and was intended to review any developments which have taken place since then. The main issues addressed during the mission were the following: problems facing the establishment of the Federation of Bosnia and Herzegovina; the return of refugees and displaced persons; freedom of movement; problems of personal security; the humanitarian situation; and freedom of the press. The Special Rapporteur was particularly keen to observe what confidence-building measures had been taken to support the peaceful coexistence of the Croat, Muslim and Serb sectors of the population. This part of the report presents the Special Rapporteur's findings at the conclusion of his mission. In due course, a detailed report will be produced giving more thorough information about human rights violations in this area. The mission of the Special Rapporteur covered among other places, a number of towns which fall under the de facto state of "Herceg-Bosna". 2/

98. In his visit the Special Rapporteur aimed to explore the broad issues referred to above, particularly in relation to their impact at the local level. The Special Rapporteur found the Croat dominated municipality of Tomislavgrad to be in a calm situation and that some positive developments had taken place. Progress was reported to have been made in the federation process, with cantonal formation appearing to be moving smoothly. Religious tolerance towards the Muslim minority was also found. A mosque exists in the town and the Muslim community has been asked to invite its prayer leader, or Imam. The major problem facing the town is the very poor economic situation. There is little industrial activity in the area and this has led to acute unemployment; only 8 per cent of the population are employed. Although this is a problem for all, the Muslim minority appears to be more adversely

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2/ The de facto state of "Herceg-Bosna" is Croat controlled, lies in the west of Bosnia and Herzegovina and came into existence in 1992. It has a fully developed institutional structure with its own government, parliament, judiciary, police force and army. It uses the currency and language of the Republic of Croatia. Since the establishment of the federation of Bosnia and Herzegovina, this area is a consitutional part of the federation.

affected. Muslims find they are heavily reliant on humanitarian aid and that they are only able to obtain menial jobs which Croats are unwilling to take. There is still some evidence of mistrust in the relations between the two groups as Muslims are reportedly not represented in the police force or in the educational field. The problem of refugees and displaced persons is a pressing one in Tomislavgrad and owing to the lack of accommodation many of these individuals have occupied abandoned houses. The authorities are facing considerable difficulties in finding accommodation for them and are endeavouring to establish a collective centre to house them.

99. In his discussions concerning Livno, the Special Rapporteur was concerned to find that a hostile attitude persisted towards the minority Muslim population. The Special Rapporteur was informed that some 80 per cent of Muslims had already left the area and that the exodus was continuing because of political pressure. Reports of human rights violations against Muslims continue to be received, with cases of evictions from flats, discrimination in employment, desecration of mosques, intimidation and physical attacks. The municipal institutions are reportedly to blame for this poor protection of minority rights. They are reported to have placed obstacles in the way of Merhamet and the local Red Cross in their distribution of aid to the local Muslim community. Livno is close to the front line and has continued to be shelled by Bosnian Serb Army positions. The Special Rapporteur intends to investigate the situation of the human rights of the Muslim population in Livno further.

100. The Special Rapporteur repeated his visit of July 1994 to Bugojno and found that the situation of the Croat and Serb minorities in that town was still unsatisfactory. These minority groups still do not feel integrated into this Muslim-dominated area and lack representation in the administration, police force and cultural life. Bitterness about the disappearance during the war of 26 Croats, whose fate is still unknown, is a continuing source of tension. Evictions from apartments continue and the question of the return of displaced persons and refugees remains unsolved.

101. The Special Rapporteur was much encouraged by the improved human rights situation in Gorni Vakuf, which represents a positive example of cooperation between Croats and Bosniaks. Indeed, he was able to meet the mayors of both communities in the same meeting and noted the awareness and consideration they showed for each other's problems. The communities are still quite separate in some respects, with separate police forces and medical centres but there are signs of increasing cooperation. There are a few joint economic projects, such as a proposed housing project known as "Village of Peace". The main problem facing this municipality is the question of financial and material resources for reconstruction efforts. The abiding problem of refugees and displaced persons remains, but a solution for this is sought at the federal and not the local level.

102. The Muslim community in Prozor continue to experience major infringements of their human rights. Prozor has witnessed dramatic population changes due to the conflict, as in many other places. There has been a sharp decline in the size of the Muslim population from some 7,500 individuals prior to the conflict to only 143 at present. They are reported to live in a ghetto-like situation on the outskirts of Prozor and their freedom of movement is

curtailed, they cannot pass through Prozor and are unable to obtain employment there. The Special Rapporteur was informed that their economic situation is very poor.

103. The Special Rapporteur also had discussions with representatives from the towns of Stolac and Capljina. Both municipalities are almost exclusively Croat in population as most Muslims and Serbs have left. Stolac is close to the front line and has suffered a heavy battering in the course of the conflict. Basic conditions necessary for the return of refugees and displaced persons do not exist. In Capljina, the human rights situation of minorities remains of concern. The Special Rapporteur has received continuing reports of evictions of Muslims and Serbs, families of members of the former Yugoslav National Army. The authorities have placed some limitations on movement into the town. Muslims remaining in the city are reported to live in fear and prefer to stay at home to avoid harassment and intimidation.

104. The Special Rapporteur last visited Mostar in July 1994. Through the efforts of the European Union administration in Mostar, there have been some positive developments in terms of the reconstruction of the infrastructure and the economy. In the past 10 months, progress has been made on the reconstruction of schools, with 10 schools being rebuilt up to now. The European Union administration is managing a building project and housing repair scheme for more than 3,500 damaged buildings located in both sides of Mostar. In April 1995, a public transport system was established and the water and electricity supplies are operational. In order to reinvigorate the economy, the European Union administration has developed a programme for reviving small enterprises which will lead to the creation of 900 jobs. The European Union administration has also played a key role in enhancing dialogue as a means of resolving disputes by bringing the parties together.

105. The Special Rapporteur notes that the European Union administration is facing difficulties in reunifying the city. The question of the freedom of movement between East and West Mostar is a continuing problem as at present only 250 persons per day from each side are able to cross from one side to the other. The Special Rapporteur finds this wholly unsatisfactory and recommended in the course of his meetings that this number be doubled. One positive development which has been noted in this regard is that medical personnel and patients in need of medical assistance are now allowed to move freely between East and West Mostar. No progress has been made on the establishment of a unified police force, and this lack of cooperation obviously affects levels of criminality in the city and the security of its citizens.

106. Unemployment is a problem for the whole city, however, it is noticeable that minority groups in areas where another nationality predominate, suffer more and appear to be targeted in terms of being denied employment and being dismissed from employment when they have it. Reports have been received that displaced persons and refugees of the majority group in these areas are given favourable treatment in terms of employment. One Muslim woman reported that she and nine other Muslim employees were dismissed on 9 May 1993 from their employment with the Finance Department, West Mostar municipality, and are still endeavouring to be reinstated. Reports have also been received from other Muslims who lost their jobs at the outbreak of the conflict and have

been unable to be reinstated. Evictions have diminished since the European Union took over the administration of the city, but reports, particularly of the evictions of Muslims in Croat-controlled West Mostar, continue to be received. On 12 April 1995, a 73-year-old Muslim woman was evicted from her apartment in West Mostar and subjected to a violent physical attack by a Croat couple from Jablanica, which resulted in injuries requiring hospitalization. Furthermore, the Western European Union police have registered 159 eviction complaints which allegedly involved violent attacks.

107. Minority groups suffer discrimination in terms of the inequitable distribution of humanitarian aid by local agencies. The Serbs are most affected because they do not have a humanitarian organization of their own which caters for their needs. The Muslims in West Mostar have been unable to establish a branch of the Merhamet Association, which could help meet their humanitarian needs. The Special Rapporteur has also been informed that minority groups are mobilized to perform work obligations, which may include the digging of trenches at confrontation lines under life-threatening conditions. It is reported that many Serbs and Muslims have received notification to enlist in the Croat Defence Council (HVO), which has forced many of them to go into hiding to avoid such an obligation. Serbs and Muslims in West Mostar are unable to partake fully in religious activities owing to the absence of an Orthodox church and a mosque in West Mostar. Reports received by the Special Rapporteur indicate that human rights violations against the Muslim population in Croat-controlled West Mostar far exceed those against minority groups in Muslim-controlled East Mostar.

108. Shelling of Mostar by the Bosnian Serb Army has been reported since the beginning of the year. This has intensified since late May with the deterioration of the security situation in Bosnia and Herzegovina as a whole, and has resulted in civilian casualties. The Special Rapporteur notes the distress of the parents of the 13 missing Bosniak soldiers who were captured in battle in 1993 by the Croat Defence Council (HVO) and have still not reappeared and trusts that the special process dealing with the problem of missing persons in the territory of the former Yugoslavia may assist in solving this problem.

E. Conclusions and recommendations

1. United Nations designated "safe areas"

109. There has been a violent escalation of military attacks on civilians by Bosnian Serb forces which has resulted in the large-scale loss of life and injury. Civilians have been callously and precisely targeted on numerous occasions by shelling and sniper attacks. It is a cause for concern that sniping incidents have increased, especially as children have been known to be targets. The Special Rapporteur recalls his conclusion in his third periodic report (E/CN.4/1994/6) that sniping at civilians to kill or wound deliberately those taking no part in hostilities constitutes a war crime. Therefore, snipers should be among those tried and sentenced for grave breaches of humanitarian law.

110. The Special Rapporteur recalls his recommendation in his first report (E/CN.4/1992/S-1/9) that heavy weaponry on the territory of Bosnia and Herzegovina should be immediately neutralized by being grouped under the supervision of UNPROFOR if necessary. This recommendation has clearly not been fully observed and has placed at risk the safety of the civilian population.

111. The humanitarian situation is grave in these areas owing to constant interference by the Bosnian Serb de facto authorities with the transport of humanitarian supplies. Control of utility supplies has been used as a weapon of war.

112. The intimidation and harassment of United Nations personnel has reached an unprecedented scale. Both the Government of Bosnia and Herzegovina and the Bosnian Serb de facto authorities have been responsible to a degree for perpetrating these acts. However, the Bosnian Serb de facto authorities bear a far greater degree of responsibility in terms of the severity of acts which they have committed against international personnel.

113. The Special Rapporteur reminds those concerned that these attacks against the safety and dignity of civilians constitute very serious violations of international humanitarian law. He calls upon all those responsible to cease these acts immediately.

2. Banja Luka

114. The situation of minorities in Banja Luka has been rapidly worsening since the Special Rapporteur alerted the international community to this problem in his report of 21 April 1995 (E/CN.4/1996/3). Grave human rights violations have occurred, with serious attacks on individuals and property sometimes leading to death. There have also been other forms of intimidation forcing non-Serbs to leave the area. The Bosnian Serb de facto authorities are culpable in allowing these acts to continue.

115. The Special Rapporteur calls on the Bosnian Serb de facto authorities to denounce these practices and to take all necessary measures to ensure these human rights violations do not continue. He also requests that access be granted to himself or his field staff in order that a first-hand assessment of the human rights situation may be made.

3. Mostar

116. Progress towards the reunification of Mostar is occurring at a halting pace. Freedom of movement between the two parts of the city is very restricted and limited progress has been made in terms of joint institutional developments. Human rights violations, particularly against the Muslim population in Croat-controlled West Mostar continue to be a cause for concern. In addition the human rights of the Serb community in both parts of Mostar are not adequately safeguarded.

117. The Special Rapporteur urges both sides to cooperate fully in working towards a speedy reunification of the city as this would greatly assist the human rights situation. As an immediate step he recommends that the number of

persons allowed to cross from one side of the city to another each day be doubled. He urges the authorities, particularly in West Mostar, to be extra vigilant that human rights of the non-Croat population are protected.

118. The Special Rapporteur encourages the international community to continue its financial support for the badly needed restoration work which is ongoing in Mostar.

4. Bosnia and Herzegovina Federation

119. Greater efforts are needed in establishing federal institutions, particularly a joint federal police force and an independent judiciary.

120. The Special Rapporteur strongly recommends that immediate steps be taken to facilitate decisions at the federal level concerning the return of refugees and displaced persons.

121. The Special Rapporteur acknowledges the highly important role played by the institution of the Federation Ombudsman in the protection and promotion of human rights.

Annex

PROGRAMME OF MEETINGS OF THE SPECIAL RAPPORTEUR DURING THE MISSION
(23 May - 2 June 1995)

Monday, 22 May

Zagreb

Meeting with Ambassadors to Croatia of Members of the Contact Group and Hungary (current President of the Organization for Security and Cooperation in Europe (OSCE)), at the invitation of the Polish Ambassador.

Tuesday, 23 May

Zagreb

Mr. Yasushi Akashi	Special Representative of the Secretary-General
Mr. Michel Moussalli	Head of Civil Affairs, UNPF
Mr. Erkki Heinonen	Deputy Chief of Mission - Croatia, UNHCR
Mr. David Riley	Deputy Chief of Mission - Bosnia and Herzegovina, UNHCR
Mr. Jan Bolling	Protection Officer, UNHCR
Mr. Steve Corliss	Protection Officer, UNHCR
Mr. Alex Braunwalder	Head of Delegation - Croatia, ICRC
Mr. Walter Fuellemann	ICRC delegate
Mr. Wladyslaw Neneman	Deputy Chief of Humanitarian Affairs, European Community Monitoring Mission (ECMM)
Mr. Milorad Pupovac	President of the Serb Independent Party
Mr. Cedo Prodanovic	Lawyer from Zagreb
Mr. Milan Djukic	President of the Serbian Popular Party, Vice-President of the Croatian Parliament
Mr. Veselin Pejnovic	Vice-President of the Serbian Popular Party, Member of Parliament

Visit to the Remetinec prison in Zagreb, meeting with Serbian detainees

Wednesday, 24 May

Western Slavonia

Mr. Graham Day	Civil Affairs Coordinator - Daruvar, UNPF
Ms. Christine McCallum	Civil Affairs Officer - Daruvar, UNPF
Officers of UNCIVPOL	
Mr. Veljko Djakula	Leader of Serb community in Western Slavonia
Mr. Obrad Ivanovic	Leader of Serb Community in Western Slavonia
Residents of the Serbian Community of Brusnik	
Mr. Ivan Majdak	Minister in the Government of Croatia
Mr. Nikola Ivankec	Chief of Police for the Pakrac region
Representatives of the Coordination of Organizations for Human Rights	

Thursday, 25 May

Zagreb

Mr. Kasim Trnka	Ambassador of Bosnia and Herzegovina to Croatia
Mr. Ivan Jarnjak	Minister of the Interior of Croatia
Dr. Miljenko Anicic	Vicar General of the Banja Luka Bishopric, Zagreb

Press conference and interviews with UNTV and UNPF Radio

Medugorje	
Colonel Samuel Pellicer	Commander, UNPROFOR Spanish battalion
Mostar	
Mayor Hans Koschnick	European Union Administrator of Mostar
Friday, 26 May	
Mostar	
Mr. Bill Townsend	Civil Affairs Officer, UNPROFOR
Colonel Jan Meijvogel	Western Police Commissioner
Ms. Michelle Brauen	ICRC Head of Delegation
Mr. Jerrie Hulmes	Head of UNHCR, Medugorje
Mr. Bacht Karam	UNHCR Programme Officer, Medugorje
Mr. Peter Deck	UNHCR Protection Officer, Medugorje
Mr. Tony Smith	UNHCR Logistics Officer, Mostar
Ms. Rowena Judd	UNHCR Field Officer, Medugorje
Ambassador Klaus Metscher	Diplomatic Adviser to the European Union Administration of Mostar (EUAM) Administrator
Sir Martin Garrod	Chief of Staff, EUAM
Ambassador Constantine Zepos	EUAM Ombudsman
Ambassador Bo Kalfors	EUAM Refugee Adviser
Ambassador Skjold Mellbin	OSCE Head of Mission in Sarajevo
Mr. Hans Birchler	EUAM Legal Adviser
BIH Women Association, East Mostar Centre for Human Rights - local NGO, Medugorje	
Marie Stopes International, Mostar	
Mr. Mandelbaum Zoran	Representative of the Jewish Community
Mr. Mehmed Dizdar	Former Mayor of Stolac, Chairman of Rama-Neretva-Hum Coordination Board

Saturday, 27 May

Mostar

Mr. Kresimir Zubak	President of the Bosnia and Herzegovina Federation
Mr. Vladislav Pogarcic	Deputy Foreign Minister of the Bosnia and Herzegovina Federation
Mr. Mijo Brajkovic	Mayor of West Mostar
Mr. Borislav Puljic	Deputy Mayor of West Mostar
Mr. Slobodan Bozic	Croat Herceg-Bosna liaison with organizations
Mr. Hamdija Jahic	Deputy Mayor of East Mostar
Mr. Rusmir Cisic	Counsellor to the Mayor of East Mostar
Mufti Hadzismail	Mufti of Mostar
Efendija Smajkic	Mufti of Mostar
Bishop Dr. Ratko Peric	Catholic Bishop of Mostar
Members of the Serb Community of West Mostar	
Families of killed or disappeared persons in East Mostar	

Sunday, 28 May

Tomislavgrad

Mr. Mijo Tokic	Mayor of Tomislavgrad
Merhamet and Moslem Association from Livno	

Gornji Vakuf

Brigadier Andrew Pringle	UN Sector South-West Commander
Mr. Jay Carter	UN Senior Civil Affairs Officer
Mr. Waheed Wahadullah	UN Civil Affairs, Gornji Vakuf

Mr. Jacques Wadestrand	UN Civil Affairs, Bugojno
Mr. Lane Visser	UNHCR Liaison Officer
Ms. Arvase Patel	UNHCR Protection Officer
Capt. Andrzej Sawicki	UNCIVPOL Liaison Officer
Colonel Khalil	Sector South-West Deputy Commander

Monday, 29 May

Gornji Vakuf

Mr. Abdulah Garaca	Mayor of Gornji Vakuf
Mr. Ivan Saric	Mayor of Ustupje

Bugojno

Mr. Dzevad Mlaco	Mayor of Bugojno
Representatives of the Muslim displaced from Prozor	
Representatives of the Croat Council of Bugojno	
Representatives of the Serb Community in Bugojno	
Mr. Jure Juric	Mayor of Prozor

Mostar

Ms. Branka Raguz	Federation Ombudsman
Mr. Esad Muhibic	Federation Ombudsman

Tuesday, 30 May

Mostar

Press Conference

Capljina

Mr. Krunoslav Kordic	Mayor of Capljina

Stolac	
Mr. Andjelko Markovic	Mayor of Stolac
Wednesday, 31 May	
Dubrovnik	
Mr. Srdj Jaksic	Lawyer from Dubrovnic
Ms. Branka Skansi	Lawyer from Dubrovnic
Mr. Zdravko Bazdan	Representative of the Croatian Helsinki Committee
Thursday, 1 June	
Zagreb	
Msgr. Franjo Kuharic	Catholic Archbishop
Mr. Milenko Popovic	Orthodox priest
Mr. Vladimir Primorac	Former Judge of the Supreme Court
Mr. Petar Novoselec	Former Judge of the Supreme Court, President of the Association of Judges of Croatia
Mr. Petar Mrkalj	Coordinator of the Croatian Helsinki Committee Office, Karlovac
Ms. Veronika Reskovic	Anti-War Campaign - Group for Direct Protection of Human Rights
Mr. Zivko Juzbasic	Member of Parliament
Mr. Slobodan Lang	Ambassador-at-Large for Humanitarian Affairs
Friday, 2 June	
Zagreb	
Dr. Ivica Kostovic	Vice Prime Minister
Dr. Mate Granic	Vice Prime Minister, Minister for Foreign Affairs

Dr. Adalbert Rebic	Director, Office of Displaced Persons
Mr. Bosiljko Misetic	Vice Prime Minister, Special Envoy of President Tudjman for the Federation
Mr. Zvonimir Cicak	President of the Croatian Helsinki Committee
Mr. Slobodan Budak	Vice President of the Croatian Helsinki Committee
Professor Ivo Banac	Member of the Croatian Helsinki Committee
General Ray Crabbe	Deputy Force Commander of UNPF

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Fifty-second session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Rwanda submitted by Mr. René Degni-Ségui, Special Rapporteur, under paragraph 20 of resolution S-3/1 of 25 May 1994

GE.95-13019 (E)

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Introduction

1. In accordance with the mandate entrusted to him by the Commission on Human Rights in resolution S-3/1 of 25 May 1994, which was extended by resolution 1995/91 of 8 March 1995 (para. 19), the Special Rapporteur visited Rwanda from 27 March to 3 April 1995 and again from 25 to 28 May 1995. The first visit formed part of the follow-up to his mission, its purpose being to ascertain the progress made in the deployment of the human rights observers in the field and in the inquiry into the genocide during the period before the first anniversary of the beginning of the massacres and the war. The second visit was made in response to the need to gather information on the recent tragic events which occurred when the displaced persons' camp in Kibeho was forcibly closed by members of the Rwandan Patriotic Army.

2. The Special Rapporteur also travelled to Belgium, France, Canada and the United States.

3. During his visit to Rwanda and the four other countries, the Special Rapporteur was able to speak with members of the Rwandan Government, representatives of the various United Nations agencies working in Rwanda, foreign diplomats accredited to Rwanda, representatives of non-governmental organizations, judicial authorities and a number of witnesses of the massacres of April-June 1994, detainees, judges, officers, various foreign personalities, human rights activists and journalists.

4. Among the prominent persons whom the Special Rapporteur met, mention should be made of:

(a) Prominent persons (Rwandan)

Mr. Pasteur Bizimuongu, President of the Republic; Mr. Faustin Twangiramumgu, Prime Minister; Mr. Seth Sendashonga, Minister of the Interior; Mr. Alphonse-Marie Nkubito, Minister of Justice; Mr. Anasthase Gasana, Minister for Foreign Affairs; the prefect of Kibuye.

(b) Prominent persons (non-Rwandan)

In Rwanda: Mr. Shaharyar Khan, Special Representative of the Secretary-General in Rwanda; Major-General Claude Toussigant, Force Commander of the United Nations Assistance Mission to Rwanda (UNAMIR); the Resident Representative of the United Nations Development Programme in Rwanda; the Chargé d'affaires of the Apostolic Nuncio in Rwanda, the Deputy Prosecutor of the International Tribunal for Rwanda, Judge Rakotomanana; the Ambassadors of Belgium and the United States; the chief of the delegation of the International Committee of the Red Cross in Kigali; the delegates of the Agency for Cultural and Technical Cooperation on mission in Rwanda.

In Belgium, France, Canada and the United States: Mr. Andries, Military Auditeur, and Mr. Van Winsen, former Military Auditeur in Brussels; General Dallaire, former Commander of UNAMIR; Mrs. Prudence Bushnell, United States Deputy Assistant Secretary for African Affairs; Mr. Reed Fendrick, Deputy Director of the Central Africa Office in the United States Department of State; members of the Canadian League of Human

Rights and several other leagues affiliated to the International Federation of Human Rights; Mrs. Iris Almeida, Programme Director in the Centre for the Rights of the Individual and Democratic Development in Montreal.

5. The Special Rapporteur would like to express his sincere thanks to all these persons who supported him in the preparation and conduct of his mission. He is particularly grateful to the Special Representative of the Secretary-General in Rwanda and the Commander of MINUAR for their assistance, logistical support and generous cooperation.

6. The conversations he held and the visits he made in the field and in prisons enabled the Special Rapporteur to assess the situation in Rwanda, stressing the progress of the inquiry into the genocide, the monitoring of the human rights situation and the problem of the return from the exodus.

I. THE INQUIRY INTO THE GENOCIDE

7. The Special Rapporteur wishes to place special emphasis on this crime against humanity, which has particularly affected the people of Rwanda. Notwithstanding the reference to genocide, the inquiry covers all violations of human rights. As a result of the field visit, it was possible to assess the deployment of the observers and the progress made in the inquiry.

A. The deployment of observers

8. In his third report (E/CN.4/1995/70 of 11 November 1994) the Special Rapporteur criticized the delay in the deployment of the observers. The situation at that time was characterized first by the absence of observers in the field, and later by the presence of a group of observers in Kigali who were unable to move into the field through lack of practical resources and logistics. Since then, substantial progress has been achieved, but the conduct of the human rights operation is beset with a number of difficulties.

1. The conduct of the human rights operation

9. This operation, which began in mid-August 1994 with four observers, has developed considerably, judging from the number of observers and their formation in teams and operational units.

(a) The number of observers

10. Following the Special Rapporteur's recommendations in his second report (E/CN.4/1995/12 of 12 August 1994) for the deployment of 150 to 200 observers, the Centre for Human Rights, by agreement with the Government of Rwanda, set a figure of 147. This figure roughly corresponded to the number of Rwandese communes (143). Having started with four observers, the operation slowly but steadily grew in size, increasing from 22 to 38 observers in October 1994, to 127 in April 1995, but falling to 122 in May. As at 22 June, the number of observers stood at 112.

11. This result was achieved thanks to various contributions: apart from the 51 observers recruited by the Centre for Human Rights, 27 were recruited by the United Nations Volunteers Programmes and 31 by the European Union.

It should be pointed out that the target figure of 147 observers has still not been achieved and that recruitment has had to be slowed down if not completely stopped at certain times through lack of resources. Thus, from 1 to 22 June 1995, the number of observers fell from 119 to 112. According to forecasts, it will drop again in the near future.

(b) The formation of teams

12. The observers are deployed in teams comprising some four to eight persons per unit. Eleven teams are assigned to regional offices in the various prefectures as follows: Butaré (9 members), Cyangungu (9), Gikongoro (8), Gisenyi (8), Gitarama (6), Kibungo (3), Kibuye (6), Kigali (7), Rilima (4), Ruhengeri (6) and Rwamagana (4). A sub-office has been opened in Nyamasheke in the prefecture of Cyangungu. Two human rights observers have been deployed in the north-east of the prefecture of Byumba to assess the possibility of opening an office in that region.

13. At the time of drafting the present report, all the prefectures in Rwanda, with the exception of Byumba, have a team of observers. Each team is headed by a team leader, who reports to the chief of the operation. In the light of their various activities, the observers are assigned to operational units.

(c) The operational units

14. The mission has set up three units: the legal analysis and coordination unit, the monitoring unit and the technical assistance unit.

(i) The legal analysis and coordination unit

15. In the context of the inquiries into the genocide and other serious violations of human rights, a special investigation unit was set up back in September 1994 to assist the Commission of Experts on Rwanda and the Special Rapporteur on Rwanda. The Commission of Experts having completed its work, this unit has continued to carry out inquiries as needed by the Special Rapporteur. As mentioned in the operational plan of the operation, experts from Finland, the Netherlands, Norway, Spain, Switzerland and the United States have undertaken far-reaching inquiries into the genocide (forensic examination of massacre sites and charnel-houses, interviews with survivors and witnesses) and compiled documents and other tangible evidence which have been transmitted, by agreement with the Special Rapporteur, to the International Tribunal for Rwanda. As a result of the establishment of an investigation unit of a judicial character within the Tribunal, the special investigation unit has been disbanded and replaced by the legal analysis and coordination unit. The latter unit is to continue inquiries into the genocide and other crimes against humanity in response to the needs of the Special Rapporteur.

(ii) The monitoring unit

16. The monitoring unit is undertaking the inquiry into past and present violations of human rights. The observers assigned to it and deployed in various regional offices report, in accordance with the above-mentioned operational plan, on the following:

(i) Progress made towards national reconciliation;

(ii) The existence of courts or magistrates responsible for settling disputes between Rwandan nationals;

(iii) The availability of housing and other structures for persons returning to Rwanda;

(iv) Measures taken by the local authorities or the Rwandan Patriotic Army concerning Rwandan returnees and the administrative practices to which the latter are subjected;

(v) Security conditions in their zone;

(vi) The availability of basic foodstuffs and services; and

(vii) The formulation of education and information programmes on human rights intended for Rwandan officials and the population as a whole.

(iii) The technical assistance unit

17. This unit deals with the assistance to be given to the Government in restoring the rule of law and confidence in civil society. It is participating in the efforts to rebuild the Rwandan judicial system, through the contribution of judicial personnel and through the training of magistrates and other court officers.

18. This unit, which is still very small in size (two members as of 2 April 1995), is due to expand, especially since on 22 February 1995 the Rwandan Minister of Justice addressed a letter to the Special Representative of the Secretary-General in Rwanda indicating the human resources needs of his Ministry, which were estimated at 678 persons (including magistrates and police investigators).

2. The difficulties encountered by the operation

19. The human rights operation in general and the Special Rapporteur in particular are encountering difficulties which are placing the mission in jeopardy. The difficulties are of two types: practical and political.

(a) The practical difficulties

20. The practical difficulties essentially amount to the shortage of financial resources. Apparently, the Centre for Human Rights receives the financial resources to be allocated to the operation in very small amounts at a time; consequently, there is constant uncertainty and anxiety about the survival of the mission beyond the following three months.

21. This has at least two unfortunate consequences. The first is the shortage of human rights observers; despite the increase in their number, they have not yet reached the target figure of 147, even though a period of more than six months has elapsed since the commencement of the operation. What is

more, the already inadequate number of observers is tending to decrease since, through lack of resources, the contracts of some observers are not being renewed. This situation is particularly regrettable because these people will have to leave at the very time when they are beginning to adapt to their socio-cultural environment and above all are gaining experience. The second consequence derives, despite the progress achieved, from the lack of certain equipment: thus some regional offices have neither telephones nor fax, which results in the disruption of communications between several offices and headquarters.

(b) The political difficulties

22. The human rights operation in general and the Special Rapporteur in particular are encountering difficulties that are preventing them from fulfilling their mission in the most effective manner possible.

23. As regards the operation, much criticism has been directed at its inefficient functioning, due notably to lack of experience, to the fact that it is directed from Geneva and to the contradictory orders given by the Geneva offices. Some of this criticism is very harsh and is in some cases poorly formulated, but the substance remains.

24. Not all the difficulties will be outlined. Reference will be made only to the political difficulties, those affecting relations between the operation and the Rwandan authorities, on the one hand, and the relations between the Special Rapporteur and the Special Procedures Branch of the Centre for Human Rights, on the other.

(i) Relations between the operation and the Rwandan authorities

25. The Rwandan authorities, both national and local, complain about the behaviour of the human rights observers. They accuse them of putting too much emphasis on the human rights violations being committed at present and accordingly neglecting the inquiry into the genocide. They maintain that the observers' action is "very police-oriented" and that the observers use legal terms such as "arbitrary arrests and detentions", the word "arbitrary" being, in the view of the authorities, equivalent to "unlawful".

26. Among the consequences of these complaints, which have been officially addressed to the chief of the operation, have been searches of the observers and their exclusion from certain detention centres, including solitary confinement cells, despite the headquarters agreement governing the activities of the operation in Rwanda and the authorizations duly issued by the Minister of Justice. The dialogue with the national authorities entered into by the United Nations High Commissioner for Human Rights and the Special Rapporteur has made it possible to assess the situation and to dispel certain misunderstandings, but certain obstacles remain, including those relating to access to solitary confinement cells.

(ii) Relations between the operation and the Special Rapporteur

27. The relations between the operation and the Special Rapporteur remain very theoretical and practically non-existent. They are filtered by the Special Procedures Branch, which forms a kind of screen blocking access to information needed by the Special Rapporteur.

28. The operation is planned and executed, without any participation by the Special Rapporteur, by the Special Procedures Branch, which directs all activities from Geneva. Moreover, the hierarchical system in the Centre requires that the observers and other investigators deployed in the field should address their reports not to the Special Rapporteur through the chief of mission, but along a chain which runs from the team leader to the High Commissioner and passes through the unit chiefs, the coordinators, the chief of mission and the chief of the Special Procedures Branch. In the other direction, the Special Rapporteur is obliged to transmit his instructions to the operation through the Office of the High Commissioner, who forwards them via the Special Procedures Branch, going down through the various levels of the hierarchy. The chief of mission is forbidden, even in urgent situations, to contact the Special Rapporteur directly.

29. This situation has three consequences. The first is the slow movement of information in both directions. This was the case with the distressing events which occurred at Kibeho on 22 April 1995; the written reports on those events remained in the files of the chief of the Special Procedures Branch, despite the Special Rapporteur's urgent request to see them. The Special Rapporteur was unable to obtain a copy of the report until 6 May, when he received it from the chief of the operation, bypassing the hierarchical procedure. The press release drafted by the Special Rapporteur on the events at Kibeho met with a similar fate. The second consequence is that there is a sifting of information within the Special Procedures Branch, which communicates to the Special Rapporteur only what it sees fit to give him. The documents transmitted amount to no more than insubstantial summaries of reports, which are accordingly of no interest to the Special Rapporteur. The third consequence is that the withholding of information has been accompanied by the disappearance of documents. Strangely, three sets of very important documents have disappeared in succession, and the Special Rapporteur's urgent appeals for proper investigations to find the documents have had no effect. It is as if there were a lack of willingness to cooperate with the Special Rapporteur, in breach of Commission on Human Rights resolution S-3/1 of 25 May 1994 on the situation of human rights in Rwanda. Under paragraph 25 of this resolution, the Commission "Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to fulfil his or her mandate".

B. Progress achieved

30. The progress made in the inquiry should be measured in terms of both fact-verification and the contribution of the International Tribunal.

1. Fact verification

31. The investigations conducted by observers deployed throughout Rwanda have verified, on the basis of eyewitness accounts and other evidence, the commission of acts constituting human rights violations.

(a) Eyewitness accounts

32. Human rights observers have gathered many eyewitness accounts from survivors and military observers present during the hostilities, from soldiers of the Rwandan Patriotic Army (APR), staff of non-governmental

organizations and members of the clergy. These accounts concern both the genocide and other violations of human rights and international humanitarian law.

(i) Genocide

33. Concurring eyewitness accounts of the massacres were gathered and systematically selected prefecture by prefecture. Incidents which occurred in a number of prefectures are described below by way of illustration.

34. In the prefecture of Butaré, eyewitnesses reported that almost 10,000 refugees were attacked with machetes in the stadium and massacred on 18 April. In Nyakibanda, 5,000 refugees were attacked over a four-day period beginning on 23 April. The survivors identified a number of individuals who had organized and carried out the massacres, including a senior political official of the former regime, who is thought by some eyewitnesses to have organized and coordinated the attacks.

35. In Cyangungu prefecture, more than 5,000 Tutsis were penned up in the stadium, without protection from the sun and rain. Many were struck with machetes. Soldiers came periodically to fetch persons to be massacred on the basis of pre-established lists. At 4 a.m. on Friday, 29 April, the terrorized hostages tried to break out of the stadium en masse and the soldiers fired into the crowd. Witnesses report having seen prisoners from Cyangungu burying three truckloads of bodies not far from the Hôtel des Chutes in the afternoon of 29 April.

36. In Gisenyi prefecture, from 7 April 1994 onwards the families of Tutsi teachers from various the schools in Nyundo (small seminary, art school, etc.) began to take refuge in the seminary with the staff. At 5 p.m., a mob of assailants armed with machetes and clubs attacked the seminary, but were dispersed by gendarmes. However, they returned about 8 p.m. and attacked again, massacring everyone hiding in one of the seminary chapels. On 8 April, the gendarmes guarding a number of Bagogwe asked them and the survivors of the massacres to go into the cathedral where, they claimed, they would be safer. On 9 April, militiamen attacked the cathedral and killed everyone inside. More than 300 persons are reported to have been massacred. On 1 May, 218 survivors of the massacres of 9 April were themselves executed.

37. In Kibuye prefecture, on 15 April 1994 the population of Gitesi took refuge in the town stadium, the church and the Saint-Pierre Home, together with refugees from other communes. On the orders of the former mayor, the stadium was guarded by gendarmes. There were about 6,000 people in the stadium, 3,250 in the church and approximately 200 in the Home. On 16 or 17 April, massacres took place in the church and Saint-Pierre Home. Three days later, the massacres spread to the stadium. As the gendarmes who had been guarding the stadium had withdrawn, the massacres were carried out methodically and systematically, beginning with the most prominent individuals. Survivors who succeeded in escaping to the Karongi hills were also attacked. Many of them died and the few survivors fled to Bisegiro.

38. In Kigali prefecture, eyewitnesses reported seeing militiamen and gendarmes carrying out massacres of Tutsis between 9 and 13 April. A number

of Tutsi leaders were massacred by units of the Presidential Guard. Groups of militiamen belonging to the Coalition pour la défense de la République (CDR) armed militia were organized in each district of Kigali. In Cyahafi district, the massacres began in the morning of Thursday 7 April.

(ii) Other grave violations of humanitarian law

39. The genocide of the Tutsis, the massacres of moderate Hutus and the renewed fighting in the civil war which followed were marked by many grave violations of international humanitarian law. These ranged from the burning of houses and property of victims or fugitives, to the taking of women hostages, rape, torture of prisoners and summary executions. The massacres mentioned as examples in the section on genocide also involved, mutatis mutandis, instances of such violations.

40. It should also be mentioned that, as the hostilities extended over the whole of Rwanda, and despite the difficulty of establishing the exact nature of violations committed in the areas controlled by the Rwandan Patriotic Army (APR), eyewitnesses report seeing several instances of violations of humanitarian law committed by the APR. A few examples are worth mentioning here. The first concerns the massacres committed by APR soldiers in some districts of Kigali, including Kimihura, Kacyiru, Remera and Gikondo. Eyewitnesses gave the names of members of massacred families. The second example concerns the massacre of 250 of the 587 Batwa in Ntongwe commune by APR soldiers. These Batwa, together with a number of Hutu villagers, were said to have responded to an appeal by the Rwandan Patriotic Front at the end of the war to return to their homes. All these facts, together with the genocide of the Tutsis, should be investigated more thoroughly and, if necessary, prosecutions should be brought by the International Tribunal for Rwanda.

(b) Evidence

41. The evidence relates mainly to the identification of sites of mass graves and the discovery of government documents, weapons used in the massacres and tape recordings of genocide propaganda.

(i) Identification of mass grave sites

42. The special investigation unit succeeded in identifying several hundred mass graves throughout Rwanda. The list of these graves, established prefecture by prefecture, has been forwarded to the Office of the Prosecutor, who is responsible for ordering any exhumations.

43. However, the extent of the special unit's work was limited in two ways. Firstly, the identification was not exhaustive, giving only an indicative list of the largest graves. Secondly, it is difficult, if not impossible, to determine the exact location of many graves and the precise number of bodies they contain. The graves mentioned in this report merely give a rough idea of the scale of the massacres perpetrated in Rwanda from 6 April 1994 onwards.

44. In the prefecture of Butaré (Kigembe commune, Nyanza sector, Rugizo district), for example, several mass graves located between the cantonal court

and the offices of the commune are thought to contain almost 5,000 bodies. Similarly, in Cyangugu prefecture, a mass grave discovered between the church and the hospital is thought to contain most of the bodies of the 2,000 to 3,000 persons murdered in the church, and in Nyamasheke sector (Kagamo commune) 15 mass graves thought to contain 4,000 to 6,000 bodies were identified around the parish. In Gikongoro prefecture (Kivu commune, Nyabirondo sector and district), a number of mass graves was discovered in the grounds of the Catholic school and church. Also, in Kibuye prefecture (Gitesi commune), mass graves thought to contain about 8,000 bodies were discovered near the Catholic church, as well as other graves containing about 10,000 bodies.

(ii) Documents

45. The members of the special investigation unit also obtained and examined documents as numerous as they were varied. They can be grouped into five major categories: documents of the former Government and the Coalition pour la défense de la République (CDR); documents of United Nations bodies, particularly UNAMIR (daily situation reports); documents of various States, particularly those with embassies in Rwanda: United States, Spain, France (Operation Turquoise); documents of non-governmental organizations, including those which witnessed the massacres at first hand; media documents, i.e. the foreign and national press, newspapers (Kanqura) and audio cassettes of the Radio Télévision Libre des Mille Collines (RTLM).

46. One document, for example, showed the structure and functioning of the militias, as well as information on the training given to them by the Presidential Guard. It also shows that the interahamwe militias ("Those who attack together") were planning to eliminate moderate Hutu opponents as early as 1992. Another document contains the results of a 1992-1993 census of the inhabitants of each commune and gives their ethnic origin, sex and age. It also provides quite detailed information on the planning of massacres in areas with large Tutsi populations. Other documents contain lists of Tutsis and moderate Hutu opponents to be killed, beginning in May 1992. The Special Rapporteur also received lists of the main organizers of the genocide in certain prefectures: Butaré, Gisenyi, Kibungo (Kayonza and Rusumo communes), Kigali-ville (Kicukiro and Nyarugenge communes). All these documents have been made available to the International Tribunal.

2. Contribution of the International Tribunal for Rwanda

47. The establishment of the International Tribunal will help to further the genocide investigation by virtue of the concurrent jurisdiction which it exercises with the national courts and the Special Rapporteur.

(a) The international tribunal and national courts

48. Under article 1 of its Statute, "The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, in accordance with the provisions of the present Statute". This provision

defines the jurisdiction of the Tribunal in respect of subject matter, as well as its territorial, personal and temporal jurisdiction. With regard to subject matter, the Tribunal is competent to deal with the violations defined in article 2 (genocide), 3 (crimes against humanity) and 4 (violations of article 3 common to the Geneva Conventions and of Additional Protocol II). With regard to territorial jurisdiction, the Tribunal may prosecute persons responsible for crimes committed in Rwanda and Rwandan citizens responsible for crimes in neighbouring countries. In his report of 13 February 1995 to the Security Council on the implementation of resolution 955 (1994) (S/1995/134), the Secretary-General states: "In extending the territorial jurisdiction of the Tribunal beyond the territorial bounds of Rwanda, the Council envisaged mainly the refugee camps in Zaire and other neighbouring countries in which serious violations of international humanitarian law are alleged to have been committed in connection with the conflict in Rwanda". The temporal jurisdiction of the Tribunal is limited to the period between 1 January and 31 December 1994. The Secretary-General's report states in this regard: "Although the crash of the aircraft carrying the Presidents of Rwanda and Burundi on 6 April 1994 is considered to be the event that triggered the civil war and the acts of genocide that followed, the Council decided that the temporal jurisdiction of the Tribunal would commence on 1 January 1994, in order to capture the planning stage of the crimes". Finally, the personal jurisdiction of the Tribunal involves prosecuting those responsible for the violations referred to in articles 2, 3 and 4 of the Statute.

49. Thus, the International Tribunal may prosecute all persons responsible for the acts referred to above. But this is only a principle, or even an ideal, the implementation of which comes up against practical difficulties that considerably limit its scope. In view of the widespread participation of Rwandans in the acts in question, it will be virtually impossible for the International Tribunal to deal with all cases of persons responsible. Consequently, the national courts of Rwanda and other countries will be called on to deal with the cases referred to them. Concurrent jurisdiction is provided for explicitly in article 8, paragraph 1, of the Tribunal's Statute, as follows: "The International Tribunal for Rwanda and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994".

50. The International Tribunal will certainly have jurisdiction to prosecute major criminals, i.e. those who planned, organized and gave the orders for crimes against humanity. The national courts, for their part, will prosecute persons responsible found in their national territory. Thus, contrary to an opinion which is widely held, particularly in Rwanda, the International Tribunal will not be the only court empowered to deal with all cases. In his report of 4 June 1995 to the Security Council (S/1995/457), the Secretary-General notes that "investigations will be carried out ... covering 400 identified suspects, most of whom have sought refuge abroad".

51. The shared wish of both the victims and those presumed responsible for the genocide that the International Tribunal should be accorded exclusive jurisdiction will thus not be fulfilled. Their only consolation may be the primacy of the International Tribunal over national courts. Under article 8,

paragraph 2 of its Statute, "The International Tribunal for Rwanda shall have primacy over the national courts of all States. At any stage of the procedure, the International Tribunal for Rwanda may formally request national courts to defer to its competence in accordance with the present Statute and the Rules of Procedure".

52. To the satisfaction produced by the primacy of the International Tribunal has been added its long-awaited establishment (see the Secretary-General's report to the Security Council pursuant to paragraph 5 of Council resolution 955 (1994) (S/1995/134 of 13 February 1995)). By resolution 977 (1995) of 22 February 1995, the Security Council established the seat of the Tribunal at Arusha; the Secretary-General has appointed the Prosecutor and Deputy Prosecutor of the Tribunal, and on 24 and 25 May 1995 the General Assembly elected the six judges of the Trial Chambers of the Tribunal (see A/49/889 of 26 May 1995), from a list of 12 candidates submitted by the Security Council (resolution 989 (1995) of 24 April 1995). They were formally invested on 27 June 1995 at The Hague. On 27 February 1995, the Security Council adopted resolution 978 (1995) concerning cooperation between States and the International Tribunal for Rwanda, in which it urged States to arrest and detain persons found within their territory against whom there is sufficient evidence of involvement in the genocide, pending prosecution by the International Tribunal. Although this resolution is non-binding, States are expected to cooperate in implementing it in good faith.

(b) The International Tribunal and the Special Rapporteur

53. Unlike the International Tribunal, the Special Rapporteur is not invested with legal powers but, as his mandate involves inquiries, both institutions are called upon to conduct investigations of the same events. This requires close cooperation between the Special Rapporteur and the Tribunal, which, after all, belong to the same organization, the United Nations.

54. In order to determine the terms of this cooperation, the Special Rapporteur met the Prosecutor of the International Tribunal at The Hague on 2 March 1995 and his Deputy in Kigali on 29 March. These meetings revealed a firm resolve on both sides to cooperate closely in establishing the facts and preparing reports, in particular by regular exchanges of data, information and documents.

55. However, while the Tribunal's contribution to the international investigation of the crimes is invaluable, it restricts the action of the Special Rapporteur, who has a political mandate and may, by holding public proceedings, compromise the judicial inquiry which, on the contrary, calls for confidential proceedings. He will thus be obliged to observe confidentiality regarding certain facts and information which, if published, could be detrimental to the inquiry and judicial proceedings and ultimately prevent the truth from coming out. Consequently, the Special Rapporteur should not be expected to publish all information brought to his attention. Information gathered regarding the present human rights situation is another matter.

II. THE MONITORING OF THE HUMAN RIGHTS SITUATION

56. The current human rights situation in Rwanda has barely changed and is still characterized by serious violations of property rights, personal security and the right to life.

A. Violations of property rights

57. In his third report (E/CN.4/1995/70 of 11 November 1994) the Special Rapporteur singled out the illegal occupation of property as one of the most frequent forms of violation of human rights in Rwanda. The Government had envisaged several solutions, the most noteworthy of which seems to be the establishment of a commission to settle property and land disputes. However, that commission has failed, and it cannot be compensated for by inadequate solutions.

1. The failure of the land dispute committee

58. The Inter-Ministerial Committee for urgent action on property and disputes over business establishments, set up in August 1994, is composed of nine ministers and presided over by the Minister of the Interior. It is assisted by a technical committee of experts under the orders of the Minister, who has the power to approve that committee's decisions, the Inter-Ministerial Committee intervening only in serious cases.

59. The Inter-Ministerial Committee has experienced many difficulties in enforcing its decisions. Its eviction measures come up against various obstacles, and several forms of resistance may be cited. Some of them are actually carried out by law enforcement officers entrusted with this task. Gendarmes and soldiers show preference for their families or friends who are illegal occupants by not carrying out the evictions. The strongest resistance comes from the occupants themselves, who use various stratagems, four of which bear mention: being absent on the day the eviction is to be carried out, thereby paralysing the action of the law enforcement officers; leaving older people on the property at the time eviction is due to be carried out, which is intended to prevent forcible eviction, given the respect for older people in Africa in general and Rwanda in particular; appealing to groups of friends to provide physical opposition to the eviction; and seeking the protection of army officers, who sometimes order the arrest of soldiers in charge of the evictions.

60. In total, the actual rate of implementation of evictions, which was initially four every Friday, scarcely exceeds 30 per cent. Furthermore, individuals relocated by the Committee have had to accept the idea of leaving their homes and living in hiding, after receiving threats from evicted occupants. Worse still, individuals who have been reinstated in their property have been arrested or have even disappeared or been murdered.

61. Some examples brought to the observers' attention may be cited. One individual, having been summoned by the head of the Gitega sector to settle the dispute regarding his brother's house, was apprehended between 22 and 24 February 1995 by gendarmes from the Nyamirambo station and accused of belonging to the extremist Democratic Republican Movement (MDR). However, there are reliable indications that he was arrested because he owned two houses and also managed his brother's house. This person is still being held at Nyamirambo gendarmerie station while his two houses have been illegally occupied by a colonel of the Rwandan Patriotic Army (APR) and a woman, both of whom allegedly took possession of the premises the day after his arrest.

A similar fate was met by a family who succeeded in getting the illegal occupants of their house at Kigali "evicted" but stood helplessly by when, at 6 a.m. on 25 August 1994, the head of the family ("husband and father") was taken away by two soldiers. His wife's attempts to find him have been unsuccessful. This is also the case of Gervais Birekeraho, a Hutu merchant from Kigali, whose story merits a brief summary. Accused of having taken part in the genocide, he was arrested but succeeded in proving, thanks to a number of pieces of evidence - including his passport, which contained stamped foreign visas - that he had been abroad at the time of the hostilities and massacres. He was released, but while he was trying to regain possession of his many properties, he was abducted. His wife notified the Human Rights Field Operation. Inquiries led to the discovery of his body a few days later.

62. Given the failure of the Committee, other solutions have been proposed within the framework of technical assistance to Rwanda.

2. Inadequate solutions

63. The proposed solutions consist basically of measures for building new housing. This project is part of the repatriated refugee resettlement plan and is managed by the United Nations Development Programme (UNDP). The Programme has provided short-term financing for the construction of 500 buildings with local materials near Kigali and a few more buildings at Mutara. Any increase in the number of housing units to be built will depend on the funds available. For the time being, the resources mobilized are still inadequate. As at 1 April 1995, UNDP had received only US$ 40 million out of the US$ 110 million needed to start up the community development programme focusing primarily on the housing sector.

64. Furthermore, this amount is totally inadequate to cope with the immense requirements of reintegrating the nearly 600,000 former refugees whose repatriation had been envisaged. International aid, therefore, remains far from sufficient. Unfortunately, this is just as true for housing construction as, generally, for national reconstruction. In the aforementioned report of 4 June 1995 (S/1995/457), the Secretary-General criticizes the slow delivery of the assistance already pledged. Regarding the economic assistance pledged at the round table held by UNDP at Geneva on 18 and 19 January 1995, he states: "Although US$ 634 million was pledged on that occasion, only US$ 69 million has actually been disbursed, of which US$ 26 million has been utilized for debt repayment." The Secretary-General concludes: "It is important that these problems be addressed." This is all the more true since assistance by the international community remains indispensable to the national reconstruction programme, especially the construction of housing or refugee centres. Such assistance could encourage the refugees to return to their homes and help to reduce, if not put an end to, violations of personal security.

B. Violations of the right to personal security

65. Violations of personal security have unfortunately multiplied over recent months, often in direct relation to violations of property rights, of which they are the immediate cause. The violations consist of arbitrary arrests and detentions leading to distressing conditions of detention.

1. Arbitrary arrests and detentions

66. The arrests and detentions effected by the Rwandan authorities are arbitrary in so far as they blatantly flout both Rwandan legislation and the pertinent international provisions. According to Rwandan criminal procedure, the arrest of a person presumed to have committed an offence must be carried out with an arrest warrant issued by the government procurator. The lawful period of detention is 48 hours. This may be extended, but not beyond five days. Beyond that period, if the prosecutor wishes to keep the arrested person in detention, he must bring him before the court of first instance, which will decide, in chambers, on pre-trial custody, which may extend to one month, or order release on bail or unconditional release if the case is dismissed. Almost all arrests and detentions carried out since the end of the hostilities have flouted the above-mentioned provisions, which in fact reflect the Basic Principles for the Treatment of Prisoners adopted by the United Nations.

67. The number of people arrested and subsequently detained has been growing for several months. As at 29 May 1995, there were 29,403 detainees in the prisons and detention centres accessible to human rights observers. The total prison population throughout the country was estimated at the end of May 1995 at more than 42,000, as stated in the latest report of the Secretary-General on Rwanda (S/1995/457 of 4 June 1995). In late February 1995, the estimate was 25,000. Thus, between the end of February and the end of May, the number of detainees rose from 25,000 to 42,000, or an additional 17,000 in three months - nearly 6,000 new detainees per month or 1,500 per week. Given the conditions in which these arrests and detentions are carried out, the Rwandan authorities themselves, in particular the former public prosecutor in the Kigali court of first instance, acknowledge that more than 20 to 30 per cent of detainees are innocent.

68. There are several interrelated reasons for the resurgence of massive arrests and detentions. The first reason, which is the one given by the authorities, is the closure of the displaced persons camps, which, according to them, had become a haven for numerous militiamen and others accused of genocide. If the latter had been outside the camps, they would have been recognized and reported by witnesses or successors of the victims of the massacres. The second reason is the slanderous accusations, motivated by hate, jealousy and covetousness for the goods of the people being persecuted. This is illustrated by the above-mentioned examples of occupation of property. The third reason is the practice of blank warrants. The Special Rapporteur was informed of the existence of this illegal practice, which consists of prosecutors signing blank warrants, which are handed to mayors who have limited police powers - and enable them to make arrests. This practice, whose existence has been explicitly confirmed by public authorities, can only contribute to the resurgence of massive and arbitrary arrests. The former public prosecutor of Kigali, who was quick to protest against these arbitrary arrests resulting from slanderous accusations, added, at a press conference in Brussels on 11 May 1995, a fourth reason relating to a statement by the International Tribunal prosecutor, Judge Goldstone. He said: "I must stress the fact that there has been a disturbing increase in these arrests following the announcement on national radio that the International Tribunal would not begin prosecutions before the end of 1995." These massive arrests are even more disturbing given that the conditions of detention leave something to be desired.

2. Distressing conditions of detention

69. The situation in the prisons is one of the major concerns of the international community. It remains indescribable and unspeakable; the former public prosecutor of Kigali calls it "tragic". With reason: it is characterized by overcrowding and inhuman treatment of prisoners.

(a) Overcrowding of the prisons

70. The prison population at 29 May 1995 consisted of 29,403 persons packed into 13 small official detention centres. These centres do not include the isolation cells and other places of detention inaccessible to the human rights observers. At 10 June 1995 the total prison population was estimated at approximately 46,000 detainees, including 1,100 minors.

71. The Rwandan prisons consist of these overcrowded centres, and the extent of overcrowding far exceeds the threshold of tolerability. This is the case in Butaré prison, which has accommodation for 1,500 detainees but on 10 June contained 6,589, four times more than capacity. It is also the case in Kigali prison, which on 3 June housed 9,401 detainees in a space intended for 2,000, or five times more than capacity. Similarly, Gitarama prison housed 6,847 detainees in a space for 800, almost eight times more than capacity.

72. In most prisons the detainees are housed in cramped conditions, most of them barely able to sit down, much less lie down on a floor which is often roughcast. The few beds are sold to the highest bidder or occupied by the strongest. It is extremely difficult for visitors to make their way through this mass of humanity exposed to the sun and the elements. It was impossible for the Special Rapporteur, during his visit on 31 March 1995, to move around within Gitarama prison. Immobilized and at the mercy of bad weather, the detainees eat, drink and defecate on the spot. This "tragic" situation spares neither old people, women, nor even children. Some of the children are under 11 years of age. In Kigali prison, there are 278 minors and 70 children accompanied by their mothers; the Special Rapporteur was particularly moved by the sight of a seven-year-old boy accused of taking part in the genocide.

73. These distressing conditions of detention cause a number of illnesses and deaths are no less common. In Gitarama prison, for example, 48 people died in April 1995. On the day of the Special Rapporteur's visit, two bodies were removed in his presence. He was subsequently informed that the daily average from June 1994 to March 1995 had been four deaths a day. Deaths are also caused by maltreatment.

(b) Inhuman and degrading treatment

74. Although the detention centres do not have a monopoly on cruel, inhuman and degrading treatment, they are the prime site for such practices. Many cases of torture that have left after-effects on the victims have been reported to United Nations human rights observers. This inhuman treatment takes several forms, ranging from beatings to kandoya and suffocation.

75. The practice of beating, which consists of striking the detainees, is common in a large number of detention centres, including the prison in Gisenyi

prefecture, where human rights observers reported receiving 40 complaints from victims in January and February 1995. In several of these cases, the victims were taken to hospital. Two died as a result of their injuries. At Save police headquarters, several detainees who had arrived in early March showed signs of ill-treatment - either open wounds on the back or legs, swollen joints or head wounds. Another detainee had scars all over his back and arms. Observers from Butaré, during a routine visit to the prison in the week of 20 to 25 March, heard noises, shouting, threats and slaps coming from the interrogation room of the criminal police officer.

76. Various other types of blows are struck by means of instruments other than clubs. These include machete blows flat across the shoulders, kicks, screw driver stabs to the back and head, which cause gashes; blows with rifle butts, causing holes in the feet; bludgeoning, leaving marks on the head and back; blows with a chain attached to a padlock, causing lacerations; and blows to the buttocks, leaving open wounds.

77. Kandoya is another torture technique which consists in tying the victim's arms just above the elbows behind his back. It leaves clear marks in the form of wounds which eventually lead to the paralysis of the upper limbs.

78. Suffocation is a form of torture which caused the incident at Muhima police station during the night of 16-17 March 1995. The facts merit a brief description. On the afternoon of 16 March, 75 arrested persons were taken from Gikora community centre to Muhima police station, where they arrived at about 5 p.m. The local police authorities said that it was too late to book them and that they would have to stay in an improvised place of detention until the formalities could be undertaken the next day. The gendarmes forced all 75 people into a room measuring barely 16 square metres, with only one door and no windows. In the middle of the night, the detainees knocked on the door, but no one was able to open it for them. The next morning, 22 of them had suffocated to death; 2 others who had been taken to hospital also succumbed, bringing the death toll to 24. The observers' request to investigate this incident was turned down by the Rwandan authorities, who assured them that they had initiated their own inquiry.

79. To this non-exhaustive list of ill-treatment should be added the rape of women and the malnutrition of detainees.

2. The solutions envisaged

80. The Rwandan Government and the international community have taken a number of short-term measures to end the overcrowding of the prisons and medium-term measures to try those accused of genocide. These measures can be divided into two major categories. The first has to do with sorting the case files and the second with the rehabilitation of the judicial system.

(a) Sorting the case files

81. The first solution advocated and implemented by the Rwandan Government consisted in setting up, on 17 October 1994, a commission to sort the case files of detainees on a prefecture-by-prefecture basis. This sorting operation had two purposes: (a) to separate ordinary criminal cases from

those relating to the genocide, and (b) to separate the cases of people against whom sufficient charges of participation in the genocide had been brought from those of other persons. The purpose of this preliminary screening was clearly to arrange for the release of people for whom detention was not necessary so as to reduce the overcrowding of prisons.

82. The case file sorting commission is composed of the public prosecutor of the court of first instance (president), a representative of the gendarmerie, a representative of the army and a representative of the information services. The Kigali commission began its work on 10 January 1995 and, at its first meeting, ordered 5 releases out of the 12 case files considered. In mid-February, 50 detainees would have been released on its orders had it not been for the opposition of the military. The commission subsequently had to stop its work owing to lack of cooperation on the part of the army.

83. It should be stressed that, no matter how praiseworthy, the commissions none the less have limitations which considerably restrict their scope. The first limitation lies in the fact that the small number of releases which the commissions are able to order cannot significantly reduce the number of prisoners or even offset the number of incoming prisoners, which is between 1,300 and 1,500 per week. The second limitation is the lack of guaranteed safety upon leaving prison. The fear of reprisals or private vengeance has led Rwandans, especially Hutus, to give themselves up as prisoners. These persons, as some of the detainees in Butaré prison have told the Special Rapporteur, are not prepared to risk their lives by leaving prison until such time as effective measures are taken to ensure their safety.

84. Following the closure of the displaced persons camps, the Government decided to arrest only those persons against whom sufficient charges of participation in the genocide had been brought. This step does not seem to have produced the expected results, given the continuously mounting number of detentions.

85. The limitations and failure of the classification commissions have prompted the United Nations agencies and humanitarian aid organizations to call for the rehabilitation of the judicial system.

(b) Rehabilitation of the judicial system

86. The rehabilitation of the judicial system is aimed at both the prisons and the courts.

(i) The prisons

87. Since early February 1995, various international organizations working on Rwandan territory have recommended that the Ministers of Defence and Justice should take urgent steps to rehabilitate the prisons. They have themselves proposed at least three solutions.

88. The humanitarian agencies first of all suggested the construction of tents for housing the detainees on sites surrounded by barbed wire. The Government rejected this proposal for reasons both of "security", given the enormous risks of escape, and of "image", as the proposal evoked uncomfortable

memories of the Nazi concentration camps. The humanitarian agencies then proposed that the detainees should be transferred provisionally to stadiums. This solution was also rejected, as it brought to mind the fact that the stadiums had served as venues for assembling and massacring Tutsis during the hostilities. The agencies' third proposal was for a prison rehabilitation plan which involved refurbishing the existing detention centres and building new ones.

89. This last solution was selected but not without resistance, as there were two main objections to the idea of building new detention centres. The first was raised primarily by the embassies of Western nations, which are major funders. Without questioning the principle of the arrests and detentions necessitated by the duty to punish those accused of the genocide and other crimes against humanity, they pointed out that increasing prison accommodation might, in this case, encourage the Rwandan authorities to persist in their "arbitrary" activities and not bother trying to relieve the prison overcrowding by releasing the victims of slanderous accusations. In other words, what was being decried and denounced was not the arrests and detentions in themselves, but the way in which they are carried out. The second objection was that building prisons would at best create only a few hundred additional spaces, which would quickly prove inadequate for the growing needs created by the 1,500 weekly arrests and detentions. Nevertheless, given the inhuman conditions of detention and the daily number of deaths resulting therefrom, everyone, or almost everyone, agreed to consider these two latter solutions as the lesser of the evils. Accordingly, a number of sites have been selected for the construction of new detention centres. One such site is at Nsida (Kibungo prefecture), where there are plans to build a prison with a capacity of 5,000. Financing will come from a voluntary fund managed by UNDP.

90. Building new prisons is, however, no panacea for the grave problem of the overcrowding of prisons. The lasting solution to this problem lies in national reconstruction, which will require greater aid from the international community. In the immediate future, this aid should be earmarked for the rehabilitation of the courts.

(ii) The courts

91. The Minister of Justice of Rwanda, at a symposium held at Lille on 20 May 1995, described the situation of the courts in the following terms: "In Rwanda more than 1 million people have died ... Judges have not been spared. Most of them went with the former leaders, others were massacred during the genocide, while those few who managed to escape are attempting to organize a semblance of justice, a crippled justice in search of itself." In fact, the Rwandan judicial machinery is still defective, if not almost non-existent. It is characterized by a shortage of both human resources and material facilities.

92. Prior to the massacres of April-July 1994, there were 708 judges. A very small number of jurists was recorded, only 45. Today, Rwanda does not have more than about 210 judges, including only 60 trained jurists. These judges can be classified as follows: prosecutors' offices and courts of first

instance, 55; court of appeal, 2; and court of cassation, 3. The 150 other magistrates are with the cantonal courts. Thus, the fact that most of the jurisdictions are not functioning is largely due to the inadequate numbers of judicial personnel. The 55 judges in courts of first instance who deal with criminal matters will have to consider the 46,000 cases currently pending. Since it is not possible to cite all the cases, the example of Kigali will suffice: its prosecutor and his 4 assistants will together have to deal with more than 9,300 cases.

93. To this shortage of human resources must be added the destruction of the infrastructure of the courts themselves, which has entailed a dire shortage of material and logistical facilities. Owing to the lack of financial resources, it has not been possible to replace all of the furniture and buildings which were destroyed. However, it is the lack of basic technical resources for investigation, particularly liaison vehicles, office materials and even paper and ball-point pens, which should be stressed. In these circumstances the judges do not have appropriate working conditions; instead, the entire processing of the cases of those accused of the genocide is slowed down.

94. In order to rectify this situation, the Minister of Justice has sent to the United Nations authorities, including the Centre for Human Rights, a request for aid, particularly in the form of foreign judicial personnel, estimated at 678, including 303 judges, 300 prosecutors and 75 police officers (police investigators).

95. In response to this request from the Rwandan Government, a technical assistance programme for the Rwandan judicial system has been adopted and is now being implemented. The first phase has two parts: rehabilitation of court buildings and rehabilitation of the prisons, including the construction of new detention centres. The second phase comprises three activities: the priority initial recruitment of 50 foreign judges, the training of national judicial personnel and the establishment, within the Ministry of Justice, of a coordination structure for foreign technical assistance and project management. This project will be managed by the Ministry of Justice, with the Office of the High Commissioner for Human Rights in charge of recruitment and financing provided by UNDP. The Centre for Human Rights has already selected 16 international jurists, whose personal history files have been sent for approval to the Minister of Justice. Their task will be to assist prosecutors in examining the case files.

96. The Human Rights Field Operation in Rwanda has been given the task of assisting the Ministry of Justice in carrying out the project for the rehabilitation of the judicial system. The objectives of this project are as follows: guidance and management of foreign judicial personnel; training of national personnel; deployment of foreign judges in the various prefectures and communes; purchase, distribution and maintenance of vehicles; and medical evacuation of foreign personnel. However, there is at the moment a legal obstacle preventing execution of the programme. For obvious reasons of national security, Rwandan law does not authorize foreign judges to exercise a jurisdictional function on Rwandan territory. It is in order to remove that obstacle, among other reasons, that the Government has submitted to Parliament a bill whose early adoption would undoubtedly help to revive the Rwandan judicial system. This is demonstrated to some extent by the failure of the

initiative of the Minister of Justice to start, if only symbolically, the trial of those accused of the genocide of 6 April 1995. The adoption of the bill by the Rwandan Parliament would certainly enable a start, and progress to be made, in the cases pending, not just those relating to the genocide, but also those involving offences currently being committed on Rwandan territory, including violations of the right to life.

C. Violations of the right to life

97. Violations of the right to life, which had decreased somewhat and given way to arbitrary arrests and detentions, are now unfortunately on the increase again, taking the form of summary executions, massacres, and abductions and enforced disappearances.

1. Summary executions

98. The human rights observers have received numerous testimonies of summary executions perpetrated by civilians and above all, by soldiers of the Rwandan Patriotic Army (APR) as acts of reprisal. Some examples may be cited merely by way of illustration. On 12 February 1995, two cyclists, Nteziyaremye and Buseruka, accidentally collided with an APR soldier in the Gakarara sector (Ruhengeri prefecture, Karago commune) and were immediately taken to the military camp at Mukamira. On 15 February, their families were informed that they had been shot by members of the APR while attempting to escape. The bodies, when recovered by the families, revealed marks and wounds which were far from consistent with the official account. On 30 April, three inhabitants of the Gasasa sector (Nyakizu commune, Butaré prefecture) discovered eight dead bodies in a small wood. They were identified as displaced persons who had recently returned from Kamana camp in Gikongoro prefecture. Witnesses said that, on the evening of 29 April - in other words, the previous evening, they had seen the eight victims alive being taken towards the wood by a group of persons, among whom were two soldiers in uniform. The victims died from blows to the head with sticks and stones. Their names were transmitted to the observers. Three persons suspected of having taken part in these executions were arrested. On 4 April, in Gitarama prefecture, a 16-year-old girl informed observers that her father had been killed the previous day in Ntenyo (Tambwe sector) by a group led by two brothers, whose first names were Vital and Aphrodis, and another four persons. This group was allegedly composed of Tutsis who had survived the war.

99. In Cyangungu prefecture, there were also several reports of summary executions. Three persons were killed by members of the APR in Nyamasheke on 24 March. The victims were identified by UNAMIR military observers. On 25 March, a further two persons were killed in Kirambo for resisting arrest. In the same town on the following day, i.e. 26 March, APR soldiers killed two women school teachers and a baby.

100. To this already lengthy list should be added the case of the murder, on 4 March 1995, of the former prefect of Butaré, Mr. Pierre-Claver Rwangabo, in circumstances which have still not been clarified. In addition to these individual killings there have been the massacres of displaced persons in Kibeho.

2. The Kibeho massacres

101. The tragedy of Kibeho constitutes the major event of the period covered by this report and therefore merits some attention. Following the failure of "Opération retour" (Operation Return), the Government of Rwanda decided, on 15 April 1995, to close the displaced persons camps which, owing to the infiltration of militiamen and soldiers from Rwanda's former armed forces, were becoming a "threat to the security of the region". The largest camp, Kibeho, still contained 120,000 persons out of a total of some 250,000 displaced persons. The Rwandan authorities gave orders to close it by force. APR soldiers took up positions round the camp as from 18 April. That day, two APR brigades, or more than 2,000 soldiers, surrounded the camps at Kibeho and Ndago in order, in their words, to carry out a search for criminals and weapons. The displaced persons panicked, and leaving their huts and abandoning all their possessions, they took refuge around the buildings controlled by UNAMIR. Following the jostling caused by the soldiers surrounding the camps and by shots fired into the air, 11 people, mostly children, were trampled to death by the panic-stricken crowd. Similar incidents, causing scores of deaths and many injured, occurred on 19, 20 and 21 April. Some 9,000 displaced persons were registered and evacuated during those three days. However, the operation was hampered by heavy rain, while groups of young civilians, armed with sticks and stones, attacked the displaced persons as they walked along the roads in large groups.

102. It seems that it was in the night of 22 April that the worst occurred; many shots were heard and, next morning, the road between the two UNAMIR posts was strewn with countless bodies. It should be made clear that some were killed by APR fire, others were trampled or crushed by the crowd in the general panic, and still others were executed by militiamen in reprisal against displaced persons who had expressed their intention of leaving the camp.

103. The number of victims of the Kibeho massacres is still undetermined. The Government of Rwanda recorded only 300 deaths, while other sources put the number at 8,000. UNAMIR, for its part, suggests a figure of between 1,500 and 2,000. The exact figure will never be known. What is important and thus to be condemned is not so much the number of deaths as the act perpetrated and the manner of its perpetration. Its unanimous condemnation by the international community is therefore readily understandable.

104. Following these massacres and their subsequent condemnations, the Government of Rwanda proposed that an international commission should be set up to inquire into the events at Kibeho. The commission, officially constituted in Kigali on 3 May, began work on 8 May and submitted its report on 18 May.

105. In its report, the commission drew a number of conclusions, of which we shall mention three. The first is that the Kibeho massacres were neither the result of a planned action to kill a specific group of people nor the result of an incident which could have been prevented. Secondly, there is sufficient evidence to establish the fact that serious human rights violations were perpetrated against unarmed displaced persons, causing their death or serious wounding. Thirdly these violations are attributable both to APR military

personnel and to armed individuals among the displaced persons themselves. The Government of Rwanda, in a statement on 26 May, took note of the conclusions and recommendations of the commission and reiterated its commitment to put them into practice.

3. Abductions and enforced disappearances

106. The human rights observers have also received a great many reports of persons abducted and missing whose families have neither news nor any trace of them. The abductions and enforced disappearances would seem to be mainly the work of members of the APR. A few cases will be mentioned as examples.

107. On 4 August 1994, between 10 and 11 p.m., Mr. Ladislas Benhimana (aged 47), an inspector of finances, was arrested along with his two children, Jean-Claude and Rosine, by three APR soldiers, apparently without a warrant. According to the information received, the representations made by his wife produced no results. On 25 August, at 6 a.m., Mr. Leodomir Baguliyoro (aged 47), a Ministry of Finance official, was abducted from his home in Kigali by two soldiers who bundled him into a vehicle. There again, the official steps taken by his wife to find him were unsuccessful. The same occurred with Mr. Ndagimana (aged 31), a driver and mechanic, who was abducted in the evening of 25 July 1994 while he was returning home from King Faisal Hospital. His car was found in front of Gikoro police station. A witness said he had seen him three days after his arrest, in handcuffs, in the compound of the national gendarmerie headquarters in Kimihurura. The investigations carried out by his family to find him yielded no results. This was also the case with Mr. Marcel Ntirenganya, who left his home on 20 October 1994 to take a soldier friend of the family back to his post. His car was found in front of Muhima police station, but he himself was never found.

108. During his most recent visit to Rwanda, the Special Rapporteur met a delegation of Rwandan women whose husbands and, in some cases, children had been missing since July 1994. They presented him with a file containing several items. The first was made up of five reports on cases of enforced disappearances. The second was a non-exhaustive list of 49 persons reported missing, abducted by APR soldiers. The list was sent to the Minister of Justice from the "Persons reported missing since July 1994 - wives' group" on 25 May 1995. To date, however, all the steps taken by these women vis-à-vis the competent authorities to find their husbands have been fruitless. The third contained a list of 149 men reported missing, addressed by the women's group in the Masoro sector (Rutongo commune, Kigali prefecture) to the chief of the human rights operation in Kigali. Their husbands have been reported missing since May 1994 in Byumba, when the Rwandan Patriotic Front (RPF) took them away to the zone it controlled for "their protection". They have been without news since then.

109. All these abductions and enforced disappearances, and particularly the events in Kibeho, can only create further obstacles to the return from the exodus.

III. THE PROBLEM OF THE RETURN FROM THE EXODUS

110. As to the problem of the return from the exodus, another major concern of the international community, there has been no obvious progress towards a solution. On the contrary, the situation of those concerned has deteriorated. However, this judgement is tempered by the fact that the problem of the return takes on different dimensions according to whether it involves displaced persons or refugees. The former have been subjected to enforced repatriation, while the latter remain blocked in the camps.

A. The forcible repatriation of displaced persons

111. It was to resolve the situation of displaced persons that "Operation Return" was launched; regrettably, it has ended in failure.

1. "Operation Return"

112. The problem of the return of the displaced persons, has fomented discord between the United Nations and the Government of Rwanda. The United Nations recommended the voluntary repatriation of displaced persons and the agreed closure of the camps, while the Government opted for their forcible closure. In support of its position, the Government invoked various arguments, including the violation of State sovereignty, the infiltration of the camps by militiamen who took refugees as hostages, and the frequent raids by militiamen on national territory. While regarding the Government's position as legitimate, the United Nations asked it to adopt the solution of the voluntary and peaceful return of the displaced population.

113. The agreement obtained from the Government to implement the strategy proposed by the United Nations made it possible to launch "Operation Return". The purpose of this operation, initiated by the United Nations Rwanda Emergency Office (UNREO), was to repatriate displaced persons from the camps to their habitual place of residence. The operation was accompanied by a food rehabilitation programme (including seed distribution) managed by ICRC. The operation began on 28 December 1994 and enabled nearly 150,000 displaced persons to be "repatriated". This solution did not prevail, however, and was implemented only from December 1994 to March 1995.

2. The failure of the operation

114. According to UNREO, some 170 families had arrived in Kibeho camp in March 1995, bringing the number of displaced persons in the camp to over 130,000. Some displaced persons left for Burundi by the Ntongwe road; others left for camps situated in the south of Gikongoro. The chief of Munini camp estimated in March 1995 that at least five families of displaced persons were leaving the camp every day to go not to Rwanda but to Burundi. According to UNAMIR the number of displaced who travelled from south-west Rwanda to Burundi between 13 and 19 March 1995 was approximately 510.

115. These observed movements arose from the fact that the repatriated persons were apprehensive and afraid of being arrested or killed. Some told officials of humanitarian agencies that they were ready to return home and be arrested

if they were accused of having taken part in the genocide, but not because they wanted to claim their property. The number of repatriations had thus considerably decreased by April 1995.

116. It was in this context that the Government decided to close the camps by force, particularly Kibeho camp; the result of this was the massacres described above. Following the brutal and forcible closure of the camps, large numbers of displaced persons were transported back to the communes from which they had come. Many others returned on foot, in difficult circumstances. Many of them were surrounded, harassed, stripped of their goods and beaten by gangs of civilians armed with sticks and stones. Thus, for example, on 21 April, five kilometres from Runyinya, over a 100 displaced persons could be seen running in terror, covered with wounds. Two youths beat to death a woman carrying a baby on her back.

117. By 25 April, with the exception of Kibeho where fewer than 2,000 persons still remained, all the camps had been evacuated and were deserted. The final movements of displaced persons took place in the south of Butaré prefecture, from Kamana towards the communes of Nyakizu, Gishamvu, Kigembe and Runyinya. On 25 April there were still a few hundred displaced persons who refused to leave the camps. On 26 April, the total number of displaced persons registered was 60,177.

118. From 19 to 28 April, when the camps were totally evacuated, the number of repatriated displaced persons was estimated to be 61,855. It should be pointed out, however, that many displaced persons did not register out of fear of the communal authority. During his visit to the Kibeho site, the Special Rapporteur observed that the camps were empty and under the supervision of APR soldiers, while the UNAMIR posts had been completely evacuated.

119. The enforced return of the displaced persons and, above all, the Kibeho massacres can only create further obstacles to the return of the refugees.

B. The Blocking of refugees

120. Despite the efforts of the United Nations and the humanitarian non-governmental organizations to improve the situation in the camps, and in spite of some progress which has been made, the refugees continue to exist in a state of permanent insecurity. They are the victims of a dilemma which, in fact, gives them no choice; on the one hand, they find their difficult life in the camps hard to bear and on the other, they cannot go home because of the lack of security in Rwanda and because they are held hostage in the camps. The various solutions envisaged to release them from this situation have not led to satisfactory results.

1. The solutions envisaged

121. The Secretary-General of the United Nations has envisaged several solutions not only to put an end to the insecurity, but also to encourage the refugees to return voluntarily and peacefully. Among these measures, mention may be made of the plan to set up a peace-keeping operation; this has failed and been replaced by the deployment of local troops.

(a) The failure of the planned peace-keeping operation

122. In his report of 25 January 1995 to the Security Council (S/1995/65), the Secretary-General proposed the setting-up of a peace-keeping operation composed of 5,000 men, to ensure that political and other refugees are kept separate.

123. This plan, which was based on an integrated approach to the various problems, was aimed at several objectives simultaneously. Its purpose was to put an end to the acts of banditry and the harassment of humanitarian personnel, to protect the storage and distribution of humanitarian aid, and to enable refugees who had applied to return to go back to Rwanda without being subjected to intimidation by the former rulers. However, the peace-keeping operation does not seem to have received the support of the States Members of the United Nations. Despite appeals by the Secretary-General, the States have almost unanimously refused to supply national contingents for the operation. In this connection, the Secretary-General reports that of the 60 States approached only one agreed to make a unit available for the operation. He therefore decided to turn towards alternative solutions - the setting-up of a group of police/military observers and contracting arrangements with private security agencies.

124. These proposals, too, have had to be dropped because they are too costly. The solution which finally prevailed was recourse to local security forces.

(b) The deployment of local troops

125. The Office of the United Nations High Commissioner for Refugees (UNHCR), in the context of the national solution, signed an agreement on 27 January 1995 with the Government of Zaire, under which this Government undertook to deploy 1,500 soldiers in order to ensure security in the refugee camps. To date, all the 1,500 Zairian soldiers have been deployed, mainly in Goma and Bukavu. According to UNHCR, a further contingent of 400 soldiers may be deployed in the camps located in Uvira.

126. The Zairian soldiers have the support of the international advisers who make up the Civil Liaison Group for security matters. This Group, currently composed of 45 officers, comprises 13 Netherlanders, 2 Swiss, 10 Beninese, 10 Guineans and 10 Cameroonians. Their number should be increased to 50.

2. Unsatisfactory results

127. It is true that the deployment of local troops in the refugee camps has restored a degree of calm, following the improvement in the food and sanitary situation. In his report of 14 April 1995 to the Security Council (S/1995/304), the Secretary-General noted that the presence of local troops in the camps in Zaire had so far yielded positive results.

128. However, the overall picture is still clearly unsatisfactory, as the main objectives are far from having been attained. In fact, the situation remains virtually the same as in previous months, and is characterized both by the renewed flow of refugees and insecurity in the camps. The total number of Rwandan refugees is approximately 2 million.

(a) The return of refugees to the camps

129. According to UNHCR, on 28 June 1995 there were 1,100,400 Rwandan refugees in Zaire, 608,700 in the United Republic of Tanzania, 200,000 in Burundi and 4,000 in Uganda.

130. Since the Kibeho massacres, there has been a threefold phenomenon: the spontaneous and orderly return to Rwanda of a large number of former Tutsi refugees from Burundi and Zaire; the end of the voluntary repatriation, organized by UNHCR, of new Hutu refugees; the renewed flow of displaced persons into the refugee camps in Zaire and of Rwandan refugees from Burundi to Tanzania.

131. The latter phenomenon should be described in greater detail. In early May 1995, 27,000 displaced persons who had survived the Kibeho massacres found refuge in north-east Burundi. Some 16,000 of them, who were not accepted by the Burundi authorities, managed to reach Zaire across the Ruzizi plain and took refuge at Uvira. In addition, between 19 and 25 May, 1,166 Rwandans who had taken refuge in Burundi arrived at the Kitali camp in Tanzania. Only 248 refugees arrived between 26 May and 1 June, after the Tanzanian authorities decided to close Tanzania's borders with Burundi.

(b) Insecurity in the camps

132. The insecurity prevailing in the camps seems to have spread well beyond their boundaries, threatening the stability of Rwanda and the security of the local populations.

133. Rwanda's stability is jeopardized by increasingly numerous forays into Rwanda by militiamen and by members of the former Rwandan government forces. The situation in Rwanda is even more disturbing in view of the reports of the training and arms deliveries received by these groups. Amnesty International and Human Rights Watch, two distinguished humanitarian organizations, identify the countries providing military assistance by name. In its report published in May 1995, Human Rights Watch reveals that arms are being supplied from South Africa, China and France to the camps in Zaire. In the report referred to above on the United Nations Assistance Mission for Rwanda (S/1995/457 of 4 June 1995), the Secretary-General criticized the situation, which he described as one of the "causes of Rwanda's current tensions and frustrations"; echoing the Kigali Government, he said that the latter was "concerned that no effective limitations are seen to be placed on military training of, and delivery of arms supplies to, elements of the former Rwandan government forces, while the arms embargo continues to apply to Rwanda".

134. The problems of the renewed flow of refugees, the insecurity in the camps and the rejection of refugees by local authorities all require urgent measures.

135. Relations between Rwandan refugees and the local populations are little better. They remain tense on account of the constant attacks on the population by armed refugees. Consequently, in the host countries - Burundi, Tanzania and Zaire - Rwandan refugees are increasingly deemed undesirable by the local population, not only because of the insecurity they generate, but

also because of the environmental deterioration they cause. This accounts for the Tanzanian authorities' decision to close their country's borders to Rwandan refugees, particularly those from Burundi. This is also the case with the Zairian authorities, who have adopted a firmer stance vis-à-vis Rwandan refugees. Already in May 1995, the Supreme Council of the Republic (the transitional parliament) of Zaire adopted a resolution calling on the Government to send the refugees back to Rwanda. In a communiqué published on 24 June, the Government of Zaire issued a statement confirming the resolution.

IV. RECOMMENDATIONS

136. The recommendations made by the Special Rapporteur duly take account of the urgent short-term and medium-term problems. Essentially these are: the repression of genocide, the cessation of human rights violations, the fate of the victims of human rights violations, the fate of refugees and displaced persons, and reconstruction and social harmony.

A. The repression of genocide

137. As recommended in the third report of the Special Rapporteur (E/CN.4/1995/70 of 11 November 1994), the United Nations should ensure as quickly as possible:

The commencement of the proceedings of the International Tribunal for Rwanda;

Increased technical and financial assistance to rehabilitate the Rwandan justice system, in particular by providing personnel, rebuilding court-houses and constructing new prisons in order to alleviate overcrowding in existing prisons.

138. The United Nations should:

Induce Rwanda to adopt legislative and regulatory measures to facilitate the performance of judicial functions by foreign magistrates in order to rapidly and fairly prosecute and try the alleged perpetrators of genocide;

Demand that Member States give full effect to Security Council resolution 978 (1995) of 27 February 1995 concerning the arrest and detention of the alleged perpetrators of the crimes committed in Rwanda present on their territory, and that they cooperate in good faith with the International tribunal;

Help to ensure the defence of the alleged perpetrators of the genocide with a view to securing equitable justice.

B. The cessation of human rights violations

139. The United Nations should demand that the Rwandan authorities ensure the observance of the following:

The prerogatives and decisions of the judicial authorities, which is an essential condition for the sound administration of justice;

In particular, the forms and procedures laid down by national legislation, and the international standards regulating the arrest and detention of suspected criminals.

140. The United Nations should recommend the following to the Government of Rwanda:

The organization of wide-ranging campaigns to make the population aware of the need to respect the physical integrity and property of others, and to prepare for a life in common and on good terms;

The adoption, as advocated in the third report of the Special Rapporteur, of forceful administrative measures designed to deter acts of reprisal and at the same time to ensure respect for the fundamental rights of anyone who may commit such acts.

C. The fate of victims of human rights violations

141. The United Nations should take appropriate measures:

To identify the victims of the genocide and of other serious human rights violations, assess their needs, and promote and/or organize care for them;

To provide or strengthen protection for vulnerable groups, particularly unaccompanied children, widows and disabled persons. It is imperative to establish a legal framework.

142. The United Nations should:

Induce the Government of Rwanda to grant applications by individuals whose property is unlawfully occupied and punish the occupiers;

Assist the Government of Rwanda to build housing for the returnees, in particular the former refugees, precisely in order to avert the unlawful occupation of property.

D. The fate of refugees and displaced persons

143. As indicated above, the United Nations should recommend that the Governments of countries hosting Rwandan refugees, and particularly the Government of Zaire, which has accepted the greatest number, take appropriate action to ensure that:

(a) The voluntary repatriation of refugees is effectively assured and facilitated;

(b) The refugees are not unduly influenced in one way or another, i.e. either to leave or to remain in the receiving country;

(c) Systematic information campaigns are organized for this purpose so that the people concerned can take a fully informed decision.

144. The United Nations should demand that the Governments in question ensure:

(a) That their territories are not used as a base for destabilizing Rwanda or committing acts of aggression against that State;

(b) That they abide by their international commitments, particularly those deriving from the relevant provisions of international conventions on asylum and refugees.

145. The United Nations should take appropriate measures:

To verify, in particular by means of an international commission of inquiry, information concerning the rearming and training of the former Rwandan government forces;

To strengthen security measures in the refugee camps in order to prevent attacks by refugees against the local populations and forays into Rwandan territory;

To ensure, by agreement with the various States concerned, the repatriation of refugees under proper conditions of security and dignity.

E. Reconstruction and social harmony

146. The United Nations should make a formal and urgent appeal to Member States, particularly the major Powers and African States, to provide substantial assistance for the reconstruction of Rwanda as a matter of urgency.

147. The United Nations should increase the number of human rights observers in Rwanda from 147 (the figure initially planned) to 300.

148. By means of an integrated approach to the problems of the Great Lakes Region, the United Nations should:

(a) Adopt a comprehensive strategy designed to prevent the disintegration of the subregion;

(b) Convene, by agreement with the Organization of African Unity and the permanent members of the Security Council, an international conference to resolve the problems of the subregion, in view of their related, interdependent and transboundary nature, with a view to establishing a permanent peace.